

## Factsheet 29

# Finding, choosing and funding a care home

July 2018

### About this factsheet

This factsheet gives information about finding, choosing and funding a suitable care home including types of homes, how to identify the right home for you and funding of care home placements.

Age UK produces other factsheets on adult social care. Factsheet 41, *How to get care and support* and factsheet 10, *Paying for permanent residential care* may be useful to read alongside this one to gain a fuller understanding of the process.

The information in this factsheet is correct for the period July 2018 to June 2019. Rates are reviewed annually and usually take effect in April but rules and figures can sometimes change during the year.

The information in this factsheet is applicable to England. If you are in Scotland, Wales or Northern Ireland, please contact Age Scotland, Age Cymru or Age NI for information. Contact details can be found at the back of this factsheet.

For contact details for any organisation mentioned in this factsheet, see the *Useful organisations* section.

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## 1 Recent developments

- The Government plans to publish a Green Paper during 2018 to consider options for funding social care for older people.
- The Competition and Markets Authority carried out a study of how care homes comply with current consumer law. They plan to issue advice to care home providers in Autumn 2018 about what more they can do to comply with legislation.

## 2 Terms used in this factsheet

This factsheet refers to several different authorities and organisations. Contact details should be at the town hall, in local libraries or websites.

- **Adult social services department:** look under the name of your local authority (the council), county council, or metropolitan or London borough, or unitary authority.
- **Housing department:** look under the name of your metropolitan or London borough, or unitary authority; or if you live in a county council area, the name of your local district council.
- **Local Age UK and Citizens Advice:** look under those names.

### Regulations and statutory guidance

This factsheet is based on the *Care Act 2014* ('the Act'), its supporting regulations and the *Care and Support Statutory Guidance 2014* ('the guidance'), introduced in April 2015. They are mentioned in the text and set out in detail how a local authority must administer adult social care.

Relevant regulations include the *Care and Support (Charging and Assessment of Resources) Regulations 2014* ('the charging regulations') and the *Care and Support and Aftercare (Choice of Accommodation) Regulations 2014* ('choice of accommodation regulations'). There are also regulations about moving between the nations of the UK.

## 3 Making a decision to go into a care home

Before deciding to move into a care home, it is important to be sure this is the best way of meeting your needs. Most people do not require permanent residential care. Check if your needs can be met in another way. For example, could your home be adapted or could you have a daily package of care and support at home?

There are other accommodation options such as warden-controlled sheltered accommodation. If you decide moving to a care home is the most suitable option, you may be anxious and experience feelings of loss of independence. However, a move could give you an opportunity to focus more fully on your wellbeing and social relationships, and reduce the strain of independently managing your care and health needs.

## 4 Types of care home and supported accommodation

This factsheet provides information about:

- care homes, and
- nursing homes.

These are standard terms used by the Care Quality Commission (CQC). Nursing homes are care homes where a nurse must be present to provide, or supervise, medical-type care alongside personal care provided. Nursing homes must be registered to provide nursing care.

Some care homes have some beds registered as providing accommodation and personal care only and other beds registered for nursing home-type care i.e. a mixture of provision.

Each type of home can provide various specialisms or services, for example dementia care. A care home providing dementia care services needs a higher staff ratio, which may be reflected in its fees. Not everyone with dementia needs a specialist home though, many people live in residential or nursing homes.

The term '*care home*' is used to cover all basic types in this factsheet.

### Ownership of care homes

Some care homes are run by the local authority. However, they are usually run by private or voluntary sector service providers.

Private care homes are run for profit by private organisations and individual proprietors. Voluntary sector homes are not-for-profit and are run by registered charities, religious organisations and housing associations; sometimes for particular groups of people.

Both types of home can choose who they offer accommodation to. They must ensure their services are suitable for your particular needs.

### Note

Each care home must have a *statement of purpose* setting out the services offered, the types of needs it meets, the range of facilities provided and the approach it takes to maximise the wellbeing of residents. This is required for CQC registration as a service provider.

The statement should be available on request to prospective residents along with copies of the home's most recent CQC inspection report. It should be reflected in any information brochure the care home provides.

## 4.1 Sheltered or shared lives housing

If you cannot stay in your own home, you might consider sheltered (warden assisted) or extra-care sheltered housing as an alternative to entering a care home. Sheltered housing may be available to rent from your local authority or a housing association. Often, a person sells their home, buys sheltered accommodation and uses any excess funds released to pay on-going monthly service-charge fees.

This type of accommodation is suitable if you do not need the level of support offered in a care home. You can arrange a package of personal care from a home care agency or personal assistant in this type of accommodation. Extra care accommodation has flexible home care provision on site as part of the basic fee structure.

The main benefit is independence in your own accommodation, usually a one or two bedroom flat, with warden assistance when required, for example via an intercom system. There are usually a range of other communal facilities on-site.

A shared lives scheme is where you live and receive care from someone in their own home. You enter a '*shared lives agreement*' with the person providing the service. This can be directly provided by a local authority or externally provided. For more information, see [www.nhs.uk/Conditions/social-care-and-support-guide/Pages/shared-lives.aspx](http://www.nhs.uk/Conditions/social-care-and-support-guide/Pages/shared-lives.aspx) and factsheet 2, *Buying retirement housing* and factsheet 64, *Specialist housing for older people*.

## 5 Am I eligible for help with care and support?

### Assessment

A local authority must assess your needs if it may have a duty to meet them, regardless of your financial position, if you request this. If they recommend a care home, it must specify the type of care home required, for example a nursing home rather than a care home and potential costs.

An assessment can be useful even if you must pay the full fees yourself ('*self-funding*'). You have a right to information and advice from the local authority to help you to make informed choices at an early stage.

### Eligibility for local authority services

The local authority must look at the:

- difficulties you have managing in your daily life
- outcomes you want, or need, to achieve
- impact of any problems on your overall wellbeing.

They must assess how their support could assist you. If you have a carer, an assessment must consider your needs regardless of their contribution and state which needs the carer is willing and able to meet.

The type of outcomes you should be supported to meet to achieve and that are looked at in your assessment can include:

- managing and maintaining nutrition
- maintaining personal hygiene
- managing toilet needs
- being appropriately clothed
- being able to make use of your home safely
- maintaining a habitable home environment
- developing and maintaining family or other personal relationships
- accessing and engaging in work, training, education or volunteering
- making use of necessary facilities or services in the local community including public transport, and recreational facilities or services
- carrying out any caring responsibilities you have for a child.

To be eligible for local authority support, difficulties experienced in achieving the above outcomes must result in a '*significant impact*' on your wellbeing. This may involve your physical, mental and emotional wellbeing, control over your day-to-day life including personal care and practical tasks, the suitability of your living accommodation, and various other elements listed in the Act.

#### Note

A local authority has a duty to ensure assessed needs that meet the eligibility criteria are met. They should be agreed and recorded in your care and support plan. In this case, it is a need for a particular type of care home accommodation.

## 5.1 Will the local authority pay for my care?

If a need for a care home is identified and agreed with you, the local authority carry out a financial assessment ('*means test*'), looking at your income and capital, to see if you have a right to help with paying fees.

### Personal budget

If you are entitled to local authority funding, they set a personal budget. This is the overall cost of meeting your needs, the amount you have to contribute, and any outstanding amount they pay.

The local authority **must** show there is **at least one suitable care home** available at your personal budget level. The guidance states the local authority '**should ensure that there is more than one of those options**' available to you.

You can **choose to enter more expensive accommodation**, but this may require a third-party top-up payment. You should never be required to pay a top-up, unless you have chosen to enter accommodation more expensive than is necessary to meet your needs.

If there are **no affordable places** available at the personal budget level, the local authority should arrange a placement in a more expensive home and increase your personal budget to meet the extra cost.

A **personal budget may be set at a higher amount** due to the particular nature of your needs, for example, a special diet that can only be met in a specific setting or facilities for cultural or medical reasons.

**Social and psychological needs must be considered** in terms of location. For example, if your spouse or partner has difficulty travelling to visit you and regular visits are vital to your wellbeing, it may not be appropriate to place you a long distance from them.

The local authority must **ensure the personal budget calculation is transparent and timely and sufficient** to meet your eligible needs. It must consider the actual cost of good quality care to ensure it genuinely reflects local market conditions.

It **should not set arbitrary amounts or ceilings** for particular types of accommodation that do not reflect a fair cost of care. It must be adequately flexible in offering accommodation and not have a '*one size fits all*' approach.

The **local authority arranges the care home placement and contract** on your behalf if assisting with funding. You still have certain choices of accommodation rights in this case.

### Availability of accommodation

You should not have to wait for your assessed needs to be met. If your preferred care home does not have current vacancies, the local authority should put you on a waiting list for your preferred home and make arrangements to meet your needs in the interim. Interim arrangements should be in a setting suitable to meet assessed needs, such as another care home or in your own home with an enhanced care package. If you are a hospital in-patient, staying in hospital may not be considered a suitable setting, once you are assessed as being ready for discharge.

The local authority should explain how the waiting list works and inform you of progress. If an interim arrangement continues beyond '*a reasonable time period*' (12 weeks is given as an example), the local authority should reassess you to ensure your interim and preferred accommodation are still suitable to meet your needs.

You should be asked if you want to wait for your preferred accommodation or stay in interim accommodation. If you are in interim accommodation and then choose to stay there on a long-term basis, the local authority can only seek a top-up payment if you choose to move into a home costing more than the amount in your personal budget.



## 5.2 Self-funders

You must '*self-fund*' your care home place if you have too much income or capital, for example savings, when the local authority carries out a financial assessment. If you are unable to arrange your care home place and there is no-one who can help you do this, the local authority must arrange the place for you, even though you pay for it. You can ask a local authority to arrange a care home place for you otherwise, but they do not have to agree to this.

If the local authority supports you to arrange your care, the guidance states they may enter into a contract with a preferred provider, or may broker the contract on your behalf. The latter only applies if you have capacity to understand and agree the contract. If the local authority arranges and manages the contract with the care home, they should ensure there are clear arrangements as to how costs will be met, including top-up payments.

If your property is included in your means-test, it is disregarded for the first 12 weeks of your care home stay. This means if other capital assets and income are low, you may only become a self-funder after 12 weeks.

Whether assisting you or not, they should provide information and advice to enable you to make an informed decision about how to proceed. See factsheet 10, *Paying for permanent residential care*, for more information.

## 6 Finding a care home

You may know the care home you want to live in, perhaps through personal experience or a recommendation. If you do not have a home in mind and are not sure of how to find one, the following may help:

- the CQC has details of registered care homes and copies of recent inspection reports on their website
- social workers from the local authority or hospital should be able to provide a list of local homes and you can ask them questions
- some charities and placement agencies help you find homes, especially if you wish to find a place quickly or live some distance away.

### Independent websites

Independent websites that help to find care homes include:

- [www.carehomeadvisor.com](http://www.carehomeadvisor.com)
- [www.which.co.uk/elderly-care/directory](http://www.which.co.uk/elderly-care/directory)
- [www.socialcareinfo.net](http://www.socialcareinfo.net)

Always check the '*About us*' section to see who they may be tied to or owned by.

## 6.1 Visit beforehand

It can be tempting to accept the first vacancy that arises, particularly if there is a shortage of care home places. It is worth taking time to find the right home. If possible, consider and compare more than one home. Try to visit the home to look around and talk to the staff and person in charge. Some homes may invite you to spend the day at the home or to visit to share a meal – ask if this is possible.

A CQC inspection looks at whether a home is safe, caring, effective and responsive to a person's needs, and well-led, and gives these ratings. These are the kind of questions you should have in your mind when considering whether a care home is suitable for you.

Talk to existing residents and see what they are doing. Are they involved in activities and the running of the home? Is there a homely, warm and busy environment? Do staff members seem interested and caring? Are residents treated well and given choices about daily activities in the home? You might ask about things such as staff ratios, staff training, management of the unit and medication management.

Care homes must produce a brochure or a service user guide with its aims and objectives, the range of facilities, and services offered to residents. Make sure the reality matches the brochure. Check you know about all charges, including for extra services or unforeseen events such as short absences. If you have difficulty travelling to visit a home, ask a local Age UK or Citizens Advice for details of transport schemes.

### Your needs assessment can help you plan

If you have a local authority needs assessment, this should identify the personal, practical and nursing assistance you may need, together with any specialist equipment, for example a mobile hoist for transfers to and from a bed or chair.

Ask the care home if they can meet these needs. They must check to ensure they are properly set up and staffed to meet your type of needs before accepting you.

Aim to collect the fullest possible information on a prospective home and then make your decision.

### Consumer legislation

Current consumer legislation requires a home to give you accurate and truthful information about their service at the first opportunity. This includes important issues such as likely fees, what fees do or do not include, any additional charges, and arrangements for increasing fees or giving notice.

The Competition and Markets Authority is planning detailed advice on what these requirements mean in practice, to be published during autumn 2018.

## 6.2 Questions to ask when choosing care home

Everyone has different views about what makes a 'good' care home and each person's needs are different. Questions to consider include:

- Does the home encourage you to do as much as possible yourself and to make choices about as many aspects of your daily lives as you can?
- Can you bring personal possessions – pictures, plants, furniture?
- Can the home meet your communication needs – for example, a language other than English, sign language, or large print?
- Do you choose what and when to eat? How are special diets catered for? Can you eat privately with guests from time to time? Can you prepare food and drinks yourself?
- Are you free to see visitors when and where you choose? Can visitors stay overnight at the home, if they have travelled long distances?
- Can you use a telephone in privacy, for incoming and outgoing calls?
- Do you get up and go to bed when you choose? If not, do you consider the arrangements to be reasonable?
- What provisions does the home make for outings to the shops, the theatre, place of worship, or entertainment?
- Is there a weekly activities plan designed around residents' needs and wishes, and is it proactively provided?
- Is there more than one living room, so there is a quiet room as well as one with a television?
- Are there books, newspapers available? Can you visit the library, or does a mobile library come?
- Do the managers of the home ask about how you would like to handle money or medicines?
- How does the home ensure valuable items are kept secure?
- Do you have your own GP?
- How will the home let you or friends know if you are taken ill?
- Is there a residents' committee?
- Does the home encourage you to say how you feel about living there, and provide written information about how to discuss a problem or make a complaint?
- Are toilets available in all parts of the home, fully equipped with handrails and other helpful equipment?
- Can wheelchairs go everywhere within the home and easily in and out? Is there a lift?
- If you need help bathing, does the home have suitable facilities? Who helps with bathing, and can you choose how often to bath or shower?

- Do you have to pay extra for toiletries?
- Are there areas for smoking and non-smoking?
- What happens if you require more or less care than currently? Might you have to leave?
- What arrangements are made for funerals, including payment?
- Can you help in the ordinary activities of the home – cleaning, cooking, gardening etc?
- Are you allowed to bring pets to the home?
- What arrangements are there if you need services such as an optician or dentist?
- Can staff be made available to take you out for essential medical or other visits? If yes, do they charge for this service?

For more information including a care home checklist, see the Age UK *Care homes* Guide.

### **Trial periods in care homes**

You may be able to arrange a move on a trial basis before you or your representatives make a final decision about whether to stay. The local authority may arrange a trial period if helping to arrange your care. This gives you the chance to see whether moving to a particular care home is the right choice for you.

Any steps to sell or terminate a tenancy on your existing accommodation should be deferred until it is agreed that your move is permanent. If you are a homeowner and your home is included in the financial assessment, the value should not be taken into account until 12 weeks after it is confirmed your care home placement is permanent.

### **Will you have to share a room?**

You might be concerned at the possibility of having to share a room with someone else. Previously, CQC standards said residents should only share rooms where they made a choice to do so. This point is not explicitly made in current CQC *Fundamental Standards*.

However, regulations require that all care homes residents are treated with dignity and respect. This includes ensuring your privacy, autonomy and independence. Age UK has been advised by the CQC that their view is you should not be forced to share rooms.

If you have a local authority needs assessment, the appropriateness of a single room should be considered as part of the assessment. Your right to home and private life under Article 8 of the *Human Rights Act 1998* should apply to their recommendations. Local authorities cannot apply blanket policies of putting everyone in shared rooms, seek legal advice if this affects you.

## 7 Your right to choose your care home and its location

If the local authority assess your needs and assist with your care home placement, you should be told about your right to choose your care home and its location, subject to certain conditions. This is based on the choice of accommodation regulations.

If you express a preference for a particular home and specified conditions are met, the local authority must provide, or arrange for, the provision of your preferred accommodation. If your preferred home costs more than the authority would otherwise pay, the extra costs may need to be met by a third party, called a 'top-up'.

This right covers care homes and nursing homes, as well as assisted living and shared lives accommodation, in England.

### Conditions for approval

Once assessed as requiring a care home, you have a right to choose between different providers of that type of home as long as:

- the home is suitable for your assessed needs
- to move would not cost your local authority more than your personal budget for that type of home
- the home is available, and
- the care home is willing to enter into a contract with the local authority to provide care at your personal budget on the local authority's terms and conditions.

Your choice must not be limited to settings or individual providers which the local authority already operates in, or contracts with, or those within their geographical boundary. If you need a place outside a local authority area, they must arrange your preferred accommodation and should consider the cost of care in that area when setting your personal budget. It is important to try and ensure your need to be accommodated in a particular area is recorded in your care and support plan.

### Written reasons for refusal

If the local authority refuse to, or is unable to, arrange a place in your preferred accommodation, they must provide written reasons.

### These rights do not apply to the NHS

If placed in accommodation by the NHS, for example NHS continuing healthcare, you do not have clear choices. NHS staff have a duty to discuss your views with you or your representatives and take these into account when making arrangements. For more information see factsheet 20, *NHS continuing healthcare and NHS-funded nursing care*

## 8 Financial considerations

You usually have to pay towards the cost of residential care. The local authority financial assessment can take into account capital such as savings and property, and income such as benefits and pensions. It includes property you own if it is not disregarded. Personal possessions are ignored and there are other capital and income disregards.

If you have more than £23,250 in capital, you must pay the full cost of your care home, known as being a '*self-funder*'. This also applies if your eligible income is higher than the care home fee.

In 2016/17, the average weekly cost of a care home room was £600 and a room in a nursing home cost £841. There are regional variations. Research found the average weekly fee for a nursing home in the south east in 2016/17 was £1,041, whereas in the north east, it was £666.

Age UK research shows a high proportion of people who receive local authority funded residential care have to make extra payments or '*top up*' payments. The guidance is clear that you cannot be asked for top-up payments unless you have chosen a more expensive home. Your personal budget must be sufficient to meet your assessed eligible needs and give you reasonable choice.

You do not pay for residential care if the NHS places you under NHS continuing healthcare. For more information, see factsheet 20, *NHS continuing healthcare and NHS-funded nursing care*.

### 8.1 If you make the arrangement yourself

You may have enough money to pay for your own care home placement in full. You might not request financial support from the local authority or because of the financial assessment. If so and you are able to arrange your own care home placement or have appropriate support, the local authority usually expect you to do this independently.

If arranging a place privately as a self-funder, you may pay significantly more than if placed and funded by a local authority in the same home, receiving the same service.

If you make private arrangements, you can choose which care home you move into. It is up to the home whether to offer you a place. If you subsequently require local authority financial assistance and your chosen care home costs more than the local authority expects to pay for that type of care, someone else must make up the shortfall via a top-up.

Even if you plan to self-fund, you can ask the local authority to carry out a needs assessment. If your capital is likely to fall below the threshold fairly quickly, it can be reassuring to know the local authority agrees you need the type of care being provided. The local authority has a duty to give you information and advice about homes, even if it is not going to meet your needs. If you pay for your own fees, you keep receiving benefits such as Attendance Allowance.

## 8.2 Fee transparency and contract clarity

If you arrange to go into a care home yourself, you must first agree and be provided with a contract based on the service offered. It is advisable to seek professional legal advice before signing a contract. If the local authority assists with funding your care home, the contract for your care is between the local authority and the home. You can request a copy of the contract. The care home must provide you with a statement of its terms and conditions, so you are clear about what to expect.

When making arrangements about fees, the care home must specify the terms and conditions about the services to be provided to you, including the amount and method of payment of fees, in their contract. They must give this to you in writing and where possible, before you agree to move to the home. Make sure the contract you agree clearly states the fees. Some questions you might ask include:

- Is a deposit required? Is this returnable? What is it for?
- What is the weekly fee and what does it cover?
- How is the NHS contribution towards registered nursing costs accounted for in a nursing home contract?
- What services are charged for as 'extras'? How much do they cost?
- Should the NHS provide any 'extras', for example continence products, chiropody and physiotherapy if you have a clinical need.
- How much notice will the home give if it has to raise the fees?
- Who is required to sign the contract? If relatives are asked to sign, they should seek legal advice.
- What fees do you pay if you are away for a short time, for example on holiday or in hospital?
- How much notice do you need to give the home in order to move?
- How much notice are you entitled to if you are asked to leave or if the home needs to close?
- Are any fees payable when a resident dies and how soon must personal belongings be removed?

If you are in a nursing home, information about fees should not imply you must pay for nursing care, as this is funded directly by the NHS.

### Note

It is important to establish the care home's fees after the death of a resident. Some homes continue to charge for a short period afterwards or until the room is cleared. The Competition and Markets Authority has issued guidance stating charges should generally be for no more than three days, or up to ten days if possessions need to be cleared from the room.

### 8.3 Moving from self-funding to local authority funding

Once your capital falls below the £23,250 threshold, you may become eligible for local authority financial support. Apply to the local authority social services department for assistance. They must agree you need to be in a care home, so your needs must be assessed.

There may be a delay between asking for a needs assessment and it being carried out. Try to approach the authority a few months before your capital falls below the limit. You should not lose out because of an unnecessarily long wait for assessment.

Once the local authority is aware of your situation, they should respond promptly. If you move to another area to go into a care home privately, the local authority in that area is responsible for you if you change from self-funding to needing local authority funding support.

For more information see factsheet 41, *How to get care and support*.

#### Can you stay where you are?

When a local authority takes over some or all funding, they enter into a contract with the care home. If the care home you live in costs more than the local authority usually pays, someone else such as a relative, friend or a charity, needs to meet the difference via a top-up payment.

If the local authority will not pay the higher fee and you are unable to meet the top-up, they may decide you must move to a less expensive care home. Before doing so, they must show a home is available and your needs can be appropriately met in the alternative accommodation.

They must carry out a new needs assessment taking into account psychological, cultural or social factors, which might require you to remain in your current care home and consider any medical risks due to moving. Their duty is to meet eligible needs and maximise your individual wellbeing, for example regarding 'suitability of living accommodation'.

### 8.4 When a local authority makes the arrangement

If a local authority assesses your needs and identifies you need a care home and help with funding, they have a duty to arrange suitable residential care. If you are a self-funder, but lack mental capacity and have no one to assist you, the local authority must make arrangements. If you have mental capacity, are a self-funder, have no one to assist you, but are unable to arrange the placement yourself, your local authority has a legal and ethical duty to ensure your care home need is met appropriately and you are not put at risk.

#### Your personal budget must be sufficient

If the local authority helps with funding, they place you at their '*usual cost*' level. This is the amount it usually costs to pay for the type of care home you need. This amount must be noted in your care and support plan as a personal budget, showing the funding they have a duty to provide to ensure your eligible needs are met.



The guidance states they must make a realistic estimation of local costs when setting your personal budget amount to ensure it is sufficient and to provide you with appropriate choice – there must be at least one at the personal budget level.

If the local authority enters into a contract for your care with the care home, it is responsible for paying fees and collecting your contribution. Alternatively, you and your local authority can each pay your respective contributions directly to the home if you, your authority and the home all agree to this arrangement.

## 8.5 Top-up

If the local authority help to pay for your care home place, they must provide at least you with at least one home within your personal budget amount. If you want to live in a more expensive care home, they should arrange this provided another person is willing to meet the difference between your personal budget and the actual cost. This is known as third party top-up payments.

You should not be asked for third party top-up payments if you have moved into a more expensive home out of necessity rather than personal preference – it must always be your choice. The local authority needs assessment should highlight this.

The top-up payer must be able to sustain the commitment and this must be confirmed before the local authority agrees to the arrangement. The payer must enter into a written agreement with the local authority.

They must be provided with sufficient information and advice to enable them to understand the terms of the written agreement before signing it.

The written agreement must include:

- the additional cost
- the amount of your personal budget
- the required frequency of payments
- details of the person who must be paid
- provision for review of the agreement
- the consequences of ceasing to make payments
- the effect of increases in charges made by the provider, and
- the effect of changes in the payer's financial circumstances.

In a third party top-up arrangement, the local authority retains responsibility for ensuring all your care home fees are paid, including the top-up. This is why they must be confident of the long-term viability of the initial arrangement.

## **Subsequent price increases**

Any increases in your care home fees may not be distributed equally between the local authority and the third party. There is no guarantee that increased costs automatically result in an increased personal budget. The local authority must ensure the payer understands this before signing the top-up arrangement.

## **Changes in circumstances**

A top-up arrangement may be reviewed due to changes in your circumstances or the person making top-up payments, changes in local authority commissioning arrangements, or increased care home costs.

Changes may not occur together. The person making top-up payments could see an unexpected change in their financial circumstances that affects their ability to continue to make contributions.

The local authority must say in writing how it responds to changes and what the responsibilities of the person making top-up payment are. They must make it clear that if you have a change that requires a new financial assessment, this may not reduce the need for top-up payments.

## **Consequences of ceasing to make payments**

If top-up payments cease due to a change of circumstances, you may have to consider moving to alternative, less expensive, accommodation. The local authority must undertake a new assessment before taking this course of action, including an assessment of your health needs, and it must have regard to your wellbeing.

You should ask them to consider the potential risks to your physical and psychological well-being that a move might present. They must take these into account if considering moving you.

## **Top-ups distinguished from other care home charges**

Top-up payments must be distinguished from charges made for extra items not covered by the home's basic fees, which are permitted. If you are unsure about a request for payment, check your contract, which should set out what the home's basic fees cover.

## **Review requirements**

Reviews of top-up arrangements should happen regularly and clear explanations provided for proposed increases. A local authority must give written details of how arrangements are reviewed, what triggers a review, and circumstances when someone can ask for a review.

Reviews should take place at least annually and in line with wider reviews of the financial assessment.

## Limited self-top-up rights

You are not usually allowed to make your own top-up payments. There are three limited exceptions:

- during the first 12 weeks of permanent residential care where a property is being taken into account in the financial assessment
- when a deferred payment agreement is in place
- 'after-care' accommodation provided under section 117 of the *Mental Health Act 1983*, in certain circumstances. The 2014 Act introduced new choice of accommodation rights under section 117a of the 1983 Act.

### 8.5.1 Enforced and informal top-ups

A local authority must, by law, contract for the full price of the service, so they receive the top-up payments from you. A care home should not ask you directly for a top-up payment. If a home does ask you for a top-up payment not specified in a local authority contract, it is not appropriate and you should raise this with the authority.

A Local Government and Social Care Ombudsman complaint against Solihull Metropolitan Borough Council about enforced top-ups confirmed that, when arranging residential care, the local authority must provide at least one appropriate care home choice that does not require a top-up. Your personal budget must be sufficient to achieve this requirement.

The guidance permits top up payments to be made directly to the care home, but only with the agreement of all three parties – you, the care home and the local authority. However the guidance states this approach is not recommended.

## 8.6 Deferred payments

If you own a property that means your capital is over the threshold for local authority funding support, you may be able to keep it by arranging a deferred payments agreement (DPA). All local authorities must have a DPA scheme. This applies if:

- 1) the local authority pay towards your care home fees following the means test (or they choose to meet your eligible needs by providing accommodation in a care home), or
- 2) you are a self-funder because your income is too high for local authority funding but they would otherwise agree your care needs should be met by way of a care home.

A written agreement between you and the local authority allows the care home debt to accrue against your property's value. The amount owed, plus accrued interest, is paid back at a later date when your property is sold. The local authority place a legal charge on your property's title deeds at the Land Registry to ensure the debt is repaid.

For more information, see factsheet 38, *Property and paying for residential care*.

## 9 Free NHS funded continuing healthcare

The NHS is responsible for meeting the full cost of care in a care home if your primary need for being there is health-based. This is called NHS continuing healthcare (NHS CHC) and can be called '*fully-funded care*'. It is usually if you have a complex, severe and/or unpredictable medical condition requiring skilled health-based care beyond the level that social care has a duty to provide.

Your NHS CHC eligibility should be considered before the local authority carries out an assessment for care assistance if you are likely to qualify. Eligibility can be fast-tracked in certain circumstances. Your local NHS may arrange a care home place for you that provides nursing care if your assessed needs meet the NHS CHC criteria.

If you receive NHS CHC, you do not have a right to choose where your residential care is to be provided. Reasonable efforts should be made to respond to your views. For more information, see factsheet 20, *NHS continuing healthcare and NHS-funded nursing care*.

### Note

It is important to ensure you have been properly assessed for NHS CHC if you may be eligible, as you do not have to pay fees.

### Hospital discharge and residential care

If you are being discharged from hospital, you may need to be assessed by the NHS and social services to establish whether either ought to arrange on-going care once you leave hospital. This can include care in a care home and is part of your discharge planning process.

You have the right to refuse to be discharged to a care home. If you do, the health and social care agencies should consider whether your needs can be met in another way. However, you do not have the right to remain in hospital indefinitely.

If placed in a care home by the local authority and your preferred home has no vacancy and is unlikely to have one in the near future, you may have to be discharged to another home until a place becomes available. Any interim arrangement should still meet your assessed needs. See factsheet 37, *Hospital discharge* for more information.

### 9.1 NHS-funded nursing care in nursing homes

The NHS is responsible for directly meeting the cost of nursing care provided to residents in nursing homes. This is limited to the health-related work directly carried out by an on-site registered nurse or in supervising other carer workers. Local authority funded and self-funding residents who need to move into nursing homes should have an assessment to identify any nursing needs carried out by a nurse.

## 9.2 Other services from the NHS

There are free NHS services you may be entitled to receive in a care home, including GP support and visits and NHS dentistry. You are entitled to free prescriptions and a free NHS sight test if you are aged 60 or over. You may be entitled to help towards the costs of glasses and NHS dentistry under the NHS Low Income Scheme.

You are eligible for NHS continence supplies if you meet the local eligibility criteria. In addition, chiropody, physiotherapy, occupational therapy and specialist equipment may be available from the local social services or NHS. For more information see factsheet 44, *NHS services*.

## 10 Respite care and rehabilitation

### Short-term respite care

You may need a short stay in a care home to give yourself or your carers a break. This is known as '*respite care*'. The process of arranging and funding respite care by the local authority is similar to permanent care but there are differences. The local authority can ask you to contribute towards the cost in one of two ways: it can either charge you as if you live in a care home or as if you live elsewhere, for example at home.

As a temporary resident, the plan is for you to return home, so the local authority must take account of on-going responsibilities and costs you must meet at home. For more information see factsheet 58, *Paying for short-term and temporary care in a care home*.

### Short-term rehabilitation

You may have short-term rehabilitation in a care or nursing home. If it is provided by the NHS, it is called intermediate care and is free of charge. Social care rehabilitation, called reablement, is intended to help you regain confidence and functional ability after leaving hospital or to avoid a hospital admission. Reablement must be free of charge for the first six weeks and longer if there is still a rehabilitation need. See factsheet 76, *Intermediate care and reablement* for more information.

## 11 If your care needs change

Your care needs may change after a period in a care home and you may eventually need higher level support in a nursing home. Your care home may have a mixture of support types and can move you within the premises. It may be possible to explore the possibility of registering one place in a care home for nursing care through the CQC. This requires the care home being able and willing to meet registration requirements for homes providing nursing care.

If you are in this situation, you might want to ask the home if this is a possibility but bear in mind that, eventually, you may need to move if your care needs increase again. In other cases, moving to a different more specialised home means you receive more appropriate care. If there are difficulties, contact your local authority to see if it can help identify a home. You may require a new needs and financial assessment.

### Note

If you are in nursing home, you should have an annual re-assessment to confirm NHS-funded nursing care is still required. This should consider if your needs have changed and possible need for an assessment for fully funded NHS continuing healthcare.

## 12 If you lack mental capacity

If you lack mental capacity and are unable to say whether you agree to being placed in a care home because, for example, you have dementia, you need someone to act on your behalf. This could be a family member or friend with a Lasting Power of Attorney or Deputyship, or a team of professionals such as those working on a hospital ward.

They must make decisions that follow '*best interests*' principles in the *Mental Capacity Act 2005*, and follow procedures and protections in the Deprivation of Liberty Safeguards.

If you have no one to speak on your behalf, you may be entitled to an Independent Mental Capacity Advocate. For more information see factsheet 22, *Arranging for someone to make decisions on your behalf* and factsheet 62, *Deprivation of Liberty Safeguards*.

## 13 Deeming principle and cross-border placements

If a local authority needs to place you in another area in England in certain types of accommodation to meet your assessed needs, they retain responsibility for you and your ordinary residence remains with them ('*the deeming principle*'). The types of accommodation are: care homes; shared lives; and supported living, for example sheltered accommodation.

On the choice of accommodation rights covered in section 7, the guidance states the deeming principle applies '*when the person's preferred accommodation is in the area of another local authority*'.

This does not apply if you chose to move elsewhere, independently arrange your accommodation and later request local authority support. In this case, you are seen as ordinarily resident in the new local authority area and their responsibility.

## Cross-border placement within the UK

Cross-border residential care placements can be arranged within England, Wales, Scotland and Northern Ireland. This includes guidance on rights to health and social care services in the new location, confirmation that the placing authority retains responsibility (including funding) and procedures for dispute resolution.

## 14 The information, advice and advocacy duty

A local authority must provide residents with information and advice relating to care and support. They must cover:

- local care and support system and how it operates
- choice of types of care and support
- choice of providers available to residents
- how to access the care and support available
- how to access independent financial advice on matters relevant to meeting needs for care and support, and
- how to raise concerns about the safety or well-being of an adult who has needs for care and support.

Information and advice must be accessible and appropriate to the needs of local people who need it, for example disability access issues must be considered in line with legal requirements.

### 14.1 The independent advocacy duty

If you struggle to understand or make decisions about your care and have no '*appropriate person*' to help you engage in the process, you can have an independent advocate appointed. An advocate's role is to find out what you want and feel, and help identify what is in your best interests. The right applies if you have substantial difficulty in:

- understanding relevant information (about social care and health issues)
- retaining that information
- using or weighing up the information
- communicating your views, wishes or feelings.

If someone cares for you, the local authority may assume you do not need an advocate. However, if you have the capacity to decide whether you or not you consent to this, and you do not consent, the local authority cannot regard your carer as an '*appropriate person*' so you are entitled to an independent advocate.

If you are unable to give or withhold consent, the local authority must make a decision about who the most appropriate person is.

## 15 Dealing with problems and complaining

After you enter a care home, it is important to know what to do if problems arise. The home should provide information in writing about how to complain. You should have a written contract setting out your rights and responsibilities or a copy of it. This may make it easier to resolve disagreements. If you do not have a written contract, your relationship with the home is likely to constitute an '*implied contract*', giving you equivalent legal rights.

Make sure you tell someone about your problem, so you can begin to sort it out. If possible, problems should initially be discussed informally with the staff of the home. You should not be penalised for raising any concerns that you have. Some homes have a residents' committee or a suggestion box through which concerns can be raised.

You can contact the CQC to express your concerns if you have an issue about the standard of care being provided. Although they do not deal with individual complaints, the CQC must respond appropriately to any information it receives.

You can raise a safeguarding concern with your local authority if you are being abused in a care home, even if your place is not being funded by them. See factsheet 78, *Safeguarding older people from abuse and neglect*, for more information.

### When the local authority arranges or provides the care

If a problem arises with a local authority-funded placement, you can raise the issue with the home or CQC. You can use the complaints procedure of the local authority, as they arrange the care. You can use the local authority complaints procedure if you live in a residential home owned by a local authority. Ultimately, you may be able to complain to the Local Government and Social Care Ombudsman.

### Self-funders' rights

If you arrange and fund your care home yourself, you have the right to complain to the Local Government and Social Care Ombudsman.

For more information, see factsheet 59, *How to resolve problems and make a complaint about social care*.

### When the NHS makes the arrangement

If your care is funded by the NHS, you can use the NHS complaints procedure. You can consider complaining to the Health Service Ombudsman if you remain unhappy with your initial complaint response.

For more information, see factsheet 66, *Resolving problems and making a complaint about NHS care*.



## 16 The Care Quality Commission and standards

The Care Quality Commission (CQC) is the independent regulator of health care and adult social care services in England. It is responsible for maintaining standards in health and adult social care in England.

Care homes are service providers required to be registered with the CQC. They must adhere to '*Fundamental Standards*' based on regulations. These include requirements that care must be appropriate and reflect your needs and preferences. You must be treated with dignity and respect.

People employed must be of good character, have the necessary qualifications, skills and experience and be able to perform the work for which they are employed ('*fit and proper person*' requirement); and that registered service providers must be open and transparent with service users about their care and treatment (the '*duty of candour*').

### Care home rating system

The CQC has a four-tier rating system, which rates services as:

- outstanding
- good
- requires improvement, or
- inadequate.

Local CQC inspectors regularly inspect services against five questions:

- is the service safe?
- is it effective?
- is it caring?
- is it responsive to a person's needs? and
- is it well-led?

You can see reports on every registered care home on the CQC's website. See next section for further details.

## Useful organisations

### Care Quality Commission

[www.cqc.org.uk](http://www.cqc.org.uk)

Telephone 03000 616 161 (free call)

The independent regulator of adult health and social care services in England, whether provided by the NHS, local authorities, private companies or voluntary organisations. It also protects the rights of people detained under the *Mental Health Act 1983*.

### Citizens Advice

England or Wales go to [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Northern Ireland go to [www.citizensadvice.co.uk](http://www.citizensadvice.co.uk)

Scotland go to [www.cas.org.uk](http://www.cas.org.uk)

In England telephone 03444 111 444

In Wales telephone 03444 77 2020

In Scotland telephone 0808 800 9060

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

### Citizens Advice Consumer Service

[www.citizensadvice.org.uk/consumer](http://www.citizensadvice.org.uk/consumer)

Telephone helpline 03454 04 05 06 Mon-Fri 9am-5pm

Welsh telephone helpline 03454 04 05 05 Mon-Fri 9am-5pm

Trained advisers can give you consumer advice over the phone and online.

### EAC FirstStop Advice

[www.firststopcareadvice.org.uk](http://www.firststopcareadvice.org.uk)

Telephone helpline 0800 377 7070 Mon 8am–7pm, Tues– Fri 8am–6pm

Provide information on housing options for older people and signposts to relevant advice organisations.

### Equality Advisory Support Service

[www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

Telephone helpline 0808 800 0082 Mon-Fri 9am-7pm, Sat 10am-2pm

Funded by the Equality and Human Rights Commission, the EASS Helpline provides information and advice about the *Equality Act 2010*.

### **Local Government and Social Care Ombudsman**

[www.lgo.org.uk](http://www.lgo.org.uk)

Telephone 0300 061 0614 Mon-Fri 8:30am - 5pm

The final stage for complaints about councils, all adult social care providers (including care homes and home care agencies) and some other organisations providing local public services. The service is free. Complaints are investigated in a fair and independent way.

### **National Association for Providers of Activities for Older People (NAPA)**

[www.napa-activities.com](http://www.napa-activities.com)

Telephone 020 7078 9375

A membership organisation providing information and advice, support and education for those responsible for the provision of activities for older people in establishments that provide services or care. NAPA holds regular themed 'Sharing Days', has a newsletter and organises appropriate training opportunities.

### **Relatives & Residents Association (The)**

[www.relres.org](http://www.relres.org)

Telephone 020 7359 8136

The Relatives & Residents Association gives advice and support to older people in care homes, their relatives and friends.

## Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice or Age Cymru Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

### Age UK Advice

[www.ageuk.org.uk](http://www.ageuk.org.uk)

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

### In Wales contact

#### Age Cymru Advice

[www.agecymru.org.uk](http://www.agecymru.org.uk)

0800 022 3444

### In Northern Ireland contact

#### Age NI

[www.ageni.org](http://www.ageni.org)

0808 808 7575

### In Scotland contact

#### Age Scotland

[www.agescotland.org.uk](http://www.agescotland.org.uk)

0800 124 4222

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