



# Choice of Accommodation Top Up's

What do I need to know?

## Introduction

This leaflet tells you about your rights to choose the accommodation in which you will receive care and support, whether it is in a care home, supported living or shared lives, once the care planning process has identified that one of these types of accommodation is the most appropriate way of meeting your needs. It also explains what you will have to do if you wish to choose accommodation that costs more than the amount that has been specified in your personal budget for the provision of accommodation of that type.

For choice to apply the council could be proposing that you live in, a care home that also provides nursing care, a shared lives setting or supported living and social work staff will have advised you which will meet your care needs.

A personal budget is the cost to the council of meeting those of your needs which it is required to or has decided to meet and has identified in your care and support plan.

## Your Right to Choose

The care planning process will have identified how your needs are to be met. Where this involves a particular type of accommodation, you have the right to choose between different providers and/or locations of that type of accommodation in England and your social worker or care coordinator will be able to give you a list of all of the relevant settings for you to choose from. You may wish to choose to live near to where you are living now or move to a different area to be closer to your family, or in a specialist home such as one run by a religious organisation. There are special cross-border arrangements if you wish your local council to arrange for you to live in accommodation in Wales, Scotland or Northern Ireland. You should seek advice from social work staff if you would like your local council to arrange this.

There are 6 conditions which need to be met for you to have your choice of setting.

### 1. Care and support needs

That your care and support plan specifies that your needs are going to be met by arranging care in a care home, shared lives or a supported living accommodation.

### 2. Type of Accommodation

That the accommodation you choose is of the type specified in your care and support plan.

### **3. Suitability of Accommodation**

That the accommodation you choose is suitable to meet your eligible care needs. Social work staff will advise you which types of accommodation are suitable to meet the needs that are set out in your care and support plan.

### **4. Cost**

The council will have undertaken a care planning process and prepared a personal budget for you that will cover the cost of meeting your eligible care and support needs. The amount in your personal budget is sufficient to meet your assessed eligible needs and there is at least one choice of setting that is affordable within that amount and the council should try to ensure there is more than one affordable setting. However, you might wish to choose a setting that costs more than the amount in your personal budget. If you do, a payment will need to be made to pay the difference between the accommodations weekly charge and your personal budget. These are called Top Up payments and these are explained later in this leaflet.

If you choose a setting outside of your local area the local authority will still pay the amount identified in your personal budget, less your client contribution from income (see our General Guide to Paying for Care in a Care Home for more information regarding client contribution assessment).

### **5. Availability**

The accommodation that you choose may not have space available. If you do not want to choose different accommodation it may be necessary for you to go on a waiting list until a place becomes available and go into alternative accommodation or receive care at home while you are waiting. This is called an Interim Care arrangement.

Your social worker will tell you how long you are likely to wait but this will only be an estimate and not a guarantee.

If the temporary accommodation charges more than the amount in your personal budget the council will pay the difference. If this happens and you decide to stay in that accommodation permanently you will only be able to stay there if a top up is made – top up payments are explained later in this leaflet.

### **6. Terms and Conditions**

The provider of the accommodation you choose must agree to contract with the council to provide you with accommodation subject to the council's usual terms and conditions.

### **If you are in Hospital**

You have all of the rights set out in this leaflet if you are going to move from hospital to accommodation of your choice, but there are some special rules for this.

Once the medical staff are sure that you can be discharged from hospital the law requires that the council must arrange your move within a very short period. If the accommodation that you choose does not have a place available, the hospital will not be able to allow you to stay in hospital until a place becomes available and you may need to have an Interim Care arrangement, as set out above.

### **Your Right to Choose More Expensive Accommodation and Top Up Payments**

When making your choice, you may choose a setting that costs more than the amount identified in your personal budget. There are many reasons why a setting may cost more such as commercial business reasons or because it considers it provides accommodation of a superior standard, for example a bigger room or other additional services.

The amount identified in your personal budget must be sufficient to meet your needs and the council must ensure that at least one option is available that is affordable within your personal budget and, wherever possible, should try to ensure that there is more than one. However, you can choose to live somewhere that costs more if you wish. If you do, your family, a friend or someone else such as a charity, or in some circumstances you, must be willing and able to make a top up payment to cover the difference between the care homes fees and the amount in your personal budget for the likely duration of your stay. The council should not force you into having to pay a top up fee because no suitable accommodation is available within the amount in your personal budget. In these circumstances, the personal budget must be adjusted to meet the costs of the accommodation needed to meet your assessed eligible needs.

It is very important that you are aware of the following:-

- The amount set in your personal budget will be reviewed regularly and may increase to ensure the amount is still sufficient to meet your eligible needs. However, the council cannot guarantee that the accommodation will increase its costs at the same rate and this may affect the level of the top up payment.
- The top up will always be the difference between the care home's fees and your personal budget.
- Whoever is paying the top-up (you or the third party) will need to sign a written agreement that they are **willing and able** to meet the difference in cost and will continue to do so throughout your stay. Prior to signing the agreement, the person paying the top-up will have to satisfy the Council that they can afford the weekly top up amount. They will need to complete a financial circumstances application form providing details of their assets and liabilities, as well as their income and expenditure. If the person paying the top-up cannot satisfy the Council that they will be able to afford the top up for the likely duration of your stay, the Council will not agree to arrange care and support in the preferred accommodation.

- The person paying the top-up should be aware that the top-up amount may vary as providers review their fee levels.
- If the person paying the top-up is unable to continue to pay the difference you may have to move to another room within the accommodation or to another accommodation that charges fees that are within the amount set in your personal budget.
- Any move to other accommodation will only happen after a community care and risk assessment of your needs to make sure that the other accommodation is right for you.

### **I am a considering paying a top up fee, what does this mean for me?**

The council providing care and support will want to know that you are willing and able to make the additional payment for the likely duration of the contract. They will therefore want to assure themselves that you can afford this and will ask you to fill out a financial questionnaire and to sign a written agreement confirming you are willing and able to make the payments.

### **I am applying for a deferred payment, can I add the top up to this agreement?**

Only top up payments applicable from the start date of the deferred payment agreement can be added to this agreement and form part of the “loan” (please note, any top up for a 12 week property disregard period cannot be added to the deferred payment and must be paid by you or a 3<sup>rd</sup> party)

### **What will be in the written agreement?**

The written agreement must include the following:

- The amount of the top up payment
- The amount of the person’s personal budget
- How often payments must be paid
- To whom the payments must be paid – this should normally be the council as they must have oversight of all top up arrangements as they are ultimately responsible for the full cost of care should the top up arrangement break down.
- How an arrangement is to be reviewed
- The consequences should you be unable to continue to make a payment. This could include moving the person receiving care.
- The effect of any increases in charges made by the provider
- The effect of any changes in the financial circumstances of the person paying the top-up.

### **Other Information**

If you or your family have any other questions about your rights to choose accommodation, please talk to your social worker.

## **Contact details**

Information on payments for the accommodation is given in our separate leaflets entitled “general guide to paying for residential care” and “property or other security and deferring payment of care fees” which your social worker can provide for you.

**Created by Darren Barwell 27.04.17 and reviewed 01.04.19**