

Choice of residential care and third party top-ups

Factsheet



Introduction

This factsheet tells you about your rights to choose where you want to live. It explains what you will have to do if you wish to choose residential care that is more expensive than the amount provided for you in your Personal Budget.

Your Personal Budget is the cost of meeting your eligible care and support needs.

Your right to choose

You have the right to choose your own care home. However, if your care home fees are being paid by the council the four areas below must be taken into account:

1. Suitability of residential care

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

2. Cost

The council will have undertaken a care and support planning process and agreed a Personal Budget with you that will cover the cost of meeting your eligible care and support needs. The council must ensure that you have at least one choice of residential care that is affordable within that amount. However, you might wish to choose residential care that costs more than your Personal Budget. If you do, your family or someone else such as a charity must pay the difference between the residential care's weekly charge and your Personal Budget. This is called a "third party top-up" and is explained in the section: 'Your right to choose more expensive residential care'.

If you choose residential care outside of your local area the council will still pay the amount identified in your Personal Budget.

3. Availability

The residential care that you choose may not have space available and if you do not want to choose alternative residential care it may be necessary for you to go on a waiting list until a place becomes available, or go into different residential care while waiting, or receive care at home. This is called an 'Interim Care' arrangement until your residential care of choice has a place available.

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

If the temporary residential care charges more than your Personal Budget the council will pay the difference. If this happens and you decide to remain in that residential care you will only be able to stay there if someone will pay the third party top-up explained in the section: 'Your right to choose more expensive residential care'.

4. Terms and conditions

The residential care that you choose may already have a contract with the council for providing care. If you are choosing residential care outside of your local area the council will make sure that the residential care meets Care Quality Commission standards and will also try to enter into a contract with that provider.

If you are in hospital, you have all of the rights set out in this factsheet if you are going to move from hospital to residential care, but there are some special rules for this.

If the residential care you have chosen does not have a place available, you will be added to a waiting list until one is free. You are not allowed to stay in hospital, so you will have to choose residential care elsewhere while you wait for your preferred option. You can talk to your social worker about alternative arrangements that may be put in place.

Your right to choose more expensive residential care

When making your choice, you may choose residential care that costs more than the amount identified in your Personal Budget. There are many reasons why residential care may cost more, for example, it considers it provides residential care of a superior standard, for example a bigger room or other additional services.

The council must ensure that you have a choice of residential care within the amount identified in your Personal Budget, but you can choose to live somewhere that costs more. If you do, a third party such as your family, a friend or a charity must be prepared to pay the difference between the care homes fees and your Personal Budget for the likely duration of your stay. This is called a 'third party top-up'.

The council must never force you to pay a top-up fee. The council must always ensure that at least one choice is available for the amount set within your Personal Budget.

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

- You cannot pay the third party top-up yourself, as all of your income and savings are taken into account in your financial assessment to establish your weekly contribution towards the cost of your residential care.
- The only circumstances where you can pay the top-up fees yourself are if you have a property and while you are within the 12 week disregard period. You should ensure you have sufficient capital or income to pay the top-up fees for this 12 week period. You should refer to the Deferred Payment Scheme for more information on this, and to check your eligibility to the scheme.
- The amount set in your Personal Budget will be reviewed regularly and may increase to ensure the amount is still sufficient to meet your needs. However, the council cannot guarantee that the residential care will increase its costs at the same rate and this may affect the level of the third party top-up.
- The third party top-up will always be the difference between the care home's fees and your Personal Budget.
- The third party will need to sign a written agreement stating that they are **willing and able** to meet the difference in cost and will continue to do so throughout your stay. If this is not provided the council will not permit the placement.
- The third party should be aware that the top-up amount may vary as providers review their fee levels.
- The council recommends that the third party obtains independent financial information and advice when considering a third party top-up.
- If the third party is unable to continue to pay the difference you may have to move to another room within the residential care or to different residential care that charges fees that are within the amount set in your Personal Budget.
- Any move to other residential care will only happen after a community care and risk assessment of your needs to make sure that the other residential care is right for you.

I am a third party. 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 person's stay. They will therefore want to assure themselves that you can afford this and will ask you to sign a written agreement confirming you are willing and able to make the payments. Any written agreement must be reviewed regularly. This would take place annually, or when the financial assessment is reviewed, or if the person's care needs change.

What will be in the written agreement?

The written agreement must include the following:

- The value of the third party top-up
- The value of the person's personal budget
- How often payments must be paid
- To whom the payments must be paid – this is usually paid to the service user and it will be collected together with their weekly charge
- How an arrangement may 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 person's financial circumstances.

Other information

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

Information on what you will have to pay for the care home you choose will be discussed during the financial assessment.



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This free online resource provides a wealth of information and services making it easier for you to make plans now and in the future.

www.durhamlocate.org.uk

Please ask us if you would like this document summarised in another language or format.

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