

Factsheet 29

Finding, choosing and funding a care home

July 2021

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*, factsheet 10, *Paying for permanent residential care* and factsheet 58, *Paying for short-term and temporary care in a care home* 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 2021 to June 2022.

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.

Contents

1	Sources and terms used in this factsheet	4
2	Types of care home	4
3	Making a decision to go into a care home	5
4	Am I eligible for help with care and support?	6
4.1	Will the local authority pay for my care?	7
4.2	Self-funders	8
5	Finding a care home	9
5.1	Visit beforehand	9
5.2	Questions to ask when choosing a care home	10
6	Your right to choose a care home and location	12
7	Financial considerations	13
7.1	Making arrangements as a self-funder	14
7.2	Self-funder contracts	14
7.3	Moving from self-funding to local authority funding	16
7.4	When a local authority makes the arrangement	17
7.5	Top-up	17
7.5.1	If the care home charges a top-up	19
7.6	Deferred payments	19
8	NHS continuing healthcare and nursing care	20
8.1	Other NHS services	20
9	Short-term and temporary care	21
10	If your care needs change	21
11	If you lack mental capacity	22
12	Out-of-area and cross-border placements	22
13	The information, advice and advocacy duty	22
13.1	The independent advocacy duty	23
14	Dealing with problems and complaining	23
14.1	Abuse and neglect	24

15	Consumer law protection for self-funders	24
16	The Care Quality Commission and standards	25
	Useful organisations	26
	Age UK	27
	Support our work	27

1 Sources and terms used in this factsheet

Care Act 2014, 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* ('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 After-care (Choice of Accommodation) Regulations 2014* ('the choice of accommodation regulations').

Competition and Markets Authority advice

The Competition and Markets Authority (CMA), the public body responsible for consumer protection, has produced advice for care home providers, setting out consumer law protections for older people making private, self-funded care home arrangements. Their advice is referred to throughout this factsheet. See section 15 for more information.

Local authority

In this factsheet, reference to a '*local authority*' refers to the adult social services department of the local authority or council. It is also used to describe similar departments within: a county council, a district council for an area in which there is no county council, a London borough council, or the Common Council of the City of London.

2 Types of care home

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. However, not every person living with dementia needs a specialist home.

The term '*care home*' is used to cover all 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.

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 care in a care home. 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 sheltered or shared lives housing.

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.

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 the 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, with the added security of ownership or a tenancy, 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 move in with or regularly visit a carer. 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 factsheet 2, *Buying retirement housing* and factsheet 64, *Specialist housing for older people*.

4 Am I eligible for help with care and support?

Assessment

A needs assessment is the first stage in getting help with care and support from the local authority. The local authority must carry out a needs assessment if it appears you may have needs for care and support, regardless of your financial position, if you request this.

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

In the assessment, the local authority must look at:

- what your care needs are
- the outcomes you want to achieve in your day-to-day life
- the impact of needs for care and support 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.

Eligibility for local authority care and support

The local authority uses the assessment to work out whether your needs meet the eligibility criteria for care and support. You have eligible needs if difficulties experienced in achieving two or more '*outcomes*' listed below 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.

Outcomes

- 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.

4.1 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 looking at your income and capital, to see if you are entitled to help with paying fees.

You are not entitled to help with care fees if you have more than £23,250 in capital, or an income high enough to meet the necessary care costs.

Personal budget

If the local authority do arrange your care, they set a **personal budget**. This is the overall cost of meeting your needs, the financially assessed amount you must contribute, and any outstanding amount they pay.

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

You can **choose to enter a more expensive care home**, but this may require a third-party top-up payment. A top-up must not be requested unless you choose to enter a care home more expensive than is necessary to meet your needs.

If there are **no suitable places** available at the personal budget level, the local authority must arrange a placement in a more expensive home and increase your personal budget to meet the extra cost and must not charge a top-up.

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 wellbeing 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 need to ensure your personal budget reflects the cost of care homes closer to 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. If meeting your needs requires a placement outside of the local authority's area, out-of-area costs must be reflected in your personal budget.

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.

If the local authority assist with funding, they arrange the care home placement and contract on your behalf. You still have certain choices of accommodation rights. You should be involved in the care and support planning and decisions about where you want to live.

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 12 weeks, the local authority should consider whether you need to be reassessed 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 the home costs more than the amount in your personal budget.

4.2 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 because you lack mental capacity and have no one able to help you, the local authority must arrange the place for you, even if you are not entitled to funding assistance.

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 agrees 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.

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.

If the value of your former home is included in the financial assessment, it can be disregarded for the first 12 weeks after you become a permanent care home resident. As such, you may only become a self-funder after 12 weeks, subject to your other assets and income.

Whether assisting you or not, they should provide information and advice to enable you to make an informed decision about how to proceed.

5 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
- local authority social workers, including those based in 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.which.co.uk/older-life-care/care-services-directory
- www.housingcare.org/index.aspx

Always check the '*About us*' section of the care home's website to see who they may be tied to or owned by.

5.1 Visit beforehand

It can be tempting to accept the first vacancy that arises, particularly if there is a shortage of local 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 well-led, safe, caring, effective and responsive to a person's needs, 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.

Make sure the reality of the care home matches the website or brochure it has produced. 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 other 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.

Information care homes must provide

A care home must provide certain information up-front to enable you to make an informed decision, in line with the CMA advice. This must include, for example, the care needs the home caters for, facilities and services offered, an indication of weekly fees and any upfront payments required. It must also display its most recent CQC inspection rating.

5.2 Questions to ask when choosing a 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 life 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 your family 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 like an optician or dentist?
- Can staff be made available to take you out for essential medical or other visits? If so, do they charge for this service?

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 delayed 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 all care homes residents to be 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 advice if this affects you.

6 Your right to choose a care home and location

If the local authority is paying all or some of the cost of your care, 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 amount specified in your personal budget, the extra costs must be met by through a 'top-up', usually paid by a third party. See section 7.5 for more information about top-up payments.

This right applies to care homes, as well as supported living and shared lives accommodation.

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 of the same type as specified in your care and support plan
- the home is suitable for your assessed needs
- the home is available, and
- the home is willing to enter into a contract with the local authority, 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.

Out of area placement

If you choose a place outside a local authority area, they must arrange your preferred accommodation, subject to meeting these conditions. They should consider the cost of care in that area when setting your personal budget and remain responsible for your care once you move to the new area.

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 under NHS Continuing Healthcare, you do not have the same choice of accommodation rights that apply when the local authority makes the arrangements. 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*.

7 Financial considerations

You must usually pay towards the cost of care in a care home. The local authority financial assessment takes capital such as savings and property and income such as benefits and pensions into account. 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 income is high enough to meet the necessary cost of your care.

In 2018/19, the average weekly cost of a care home room was £655 and a room in a nursing home cost £937. There are regional variations. Research found the average weekly fee in 2018/19 for a nursing home in the east of England was £1,045, whereas in the north east, it was £731.

Age UK is aware that many older people receiving local authority funded care in a care home are asked 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. The local authority must show there is at least one suitable care home available at your personal budget level.

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

7.1 Making arrangements as a self-funder

You may be in the position of paying your care home fees in full. You might not request financial support from the local authority or this might be 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 pay for your own fees, you remain entitled to payment of disability benefits such as Attendance Allowance.

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. Even if you plan to self-fund, you can ask the local authority to carry out a needs assessment, which may help you choose a suitable home. 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 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. If you subsequently require local authority financial assistance and your chosen care home costs more than the amount specified in your personal budget, someone else must make up the shortfall via a top-up. See section 7.3 for information about moving from self-funding to local authority funding.

7.2 Self-funder contracts

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.

Before making an offer of a place, the care home must provide you with a copy of its standard contract and terms and conditions. The CMA advice says this is vital to ensure you can make an informed decision about whether the care home is right for you. This should also allow you to become familiar with, and understand, the terms and conditions before agreeing to them in a contract.

The CMA advice says the contract must not place you at unfair disadvantage. Potentially unfair terms include those requiring you to pay a deposit that the care home has wide discretion to keep without justification, or where the reason for the deposit is unclear. It can include being required to make other upfront payments, unless these are advance payments of your regular care fees.

If you choose to take up the offer of a place, the CMA advice requires the care home to confirm the final, total amount of fees to be paid. A trained member of staff must explain the terms of the offer and ensure you understand what you are agreeing to.

Once you have signed the contract, the care home must provide you with a copy. Before signing a contract, 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-funded nursing care contribution 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 may need to 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?

See section 15 for more information about the CMA contract advice.

Charging fees after the resident's death

Some contracts require fees to be paid for a fixed period after the resident's death. The CMA say this fixed period should not be more than three days. Alternatively, the home may charge fees until the resident's room is cleared. The CMA say this should not be longer than ten days, even if the room has not been cleared by the resident's representatives.

NHS-funded nursing care

If you need a nursing home, the NHS is responsible for paying a weekly contribution towards the cost of the nursing care, if you are eligible following an assessment. This is called NHS-funded nursing care (FNC) and is paid directly to the home.

If you are self-funding, it is important to clarify how the FNC relates to your fees. You should not be required to pay for the portion of nursing costs covered by the FNC, as per the CMA advice. The advice requires the home to ensure your contribution to fees is fairly calculated in a way which fully recognises the element of your care covered by the FNC.

The nursing home must give a clear explanation of how the FNC relates to your fees. They must define the services covered by the FNC and those you must pay for, and clearly set out what happens to your fees if the FNC amount changes, for example an annual increase.

7.3 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. Contact the local authority social services department for assistance and request a needs assessment. They must agree you need to be in a care home, so your needs must be assessed.

Once the local authority is aware of your situation, they should respond promptly. However, 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.

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?

If the care home you live in costs more than your personal budget amount, the local authority can request a top-up as a condition of you remaining there. A top-up is usually paid by a third party, such as a relative or friend, who is willing and able to pay the extra expense.

However, the local authority must show your personal budget is sufficient to meet your needs for care and support. This means it must demonstrate it is sufficient to meet the cost of an available, alternative, suitable care home that you can be safely moved to, based on an assessment of your individual needs. If it cannot, a top-up must not be requested. Instead, the local authority must increase your personal budget to allow you to stay where you are.

If the authority says you must move unless a top-up is paid, ask it to show that your personal budget is enough to meet your individual needs for care and support. The needs assessment must take into account psychological, cultural, or social wellbeing factors, which might require you to remain in your current care home and consider any health and wellbeing risks due to moving. Ask for a copy of your needs assessment to make sure all your needs have been taken into account.

In a recent complaint report, the Local Government and Social Care Ombudsman highlighted the requirement to carry out a risk assessment of moving to a new care home –

‘It is widely known that moving a vulnerable elderly resident, especially those who have dementia, to another care home where everything...is unfamiliar, can have a damaging impact on their physical and mental wellbeing. As such, this is a risk that a Council should properly assess and record, when proposing such a move’.

7.4 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 care. If you are a self-funder, but you lack mental capacity and have no one able to assist you, the local authority must make arrangements.

If you have mental capacity, are a self-funder, have no one to assist you, and are unable to arrange the placement yourself, for example due to physical illness, the local authority should ensure your care home need is met appropriately and you are not put at risk. As the local authority enters into a contract with the care home, it is responsible for paying fees and collecting your contribution.

7.5 Top-up

If the local authority help to pay for your care home place, they must provide you with at least one suitable home within your personal budget amount. If you chose a more expensive care home, they must arrange this provided another person is willing and able to pay the difference between your personal budget and the actual cost, and the other choice of accommodation criteria are met (see section 6).

This is called a third party top-up payment. You should not be asked for a third party top-up if you have moved into a more expensive home out of necessity rather than personal preference. The needs assessment must be used to establish what is necessary to meet your needs.

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

The written agreement must include:

- the amount of your personal budget and the top-up amount
- the required frequency of payments and 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.

The local authority retains responsibility for ensuring all your care home fees are paid, including the top-up.

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 regarding informing them of a change of circumstances. 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. If you are unsure about a request for payment, check with the local authority. They should be clear about which costs are covered by the top-up.

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:

- when your property is subject to the 12-week disregard at the start of a permanent care home placement
- when a deferred payment agreement is in place
- 'after-care' accommodation provided under section 117 of the *Mental Health Act 1983*.

7.5.1 If the care home charges a top-up

Any top-up must be agreed with and arranged by the local authority. The authority must agree a contract with the care home to pay the full cost of your care, including any top-up amount. The care home must not seek to charge its own, separate top-up. If the home does ask you for a top-up payment, raise this with the local authority.

Once a top-up has been agreed with the local authority, the guidance permits the 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.

7.6 Deferred payments

If you own a property that means your capital is over the £23,250 threshold for local authority funding, you may be able to delay selling it to pay care home fees by arranging a deferred payment agreement (DPA) with the local authority. The local authority must provide a DPA if certain criteria are met and has discretion to do so in other circumstances.

A written agreement between you and the local authority allows the care fee 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 can also charge an administration fee. The local authority place a legal charge on your property's title deeds at the Land Registry to ensure the debt is repaid.

You may wish to seek independent financial advice before proceeding with a DPA to ensure it is the best option for you. In particular, the value of the property under a DPA agreement can affect a Pension Credit award and may mean you are not entitled to on-going payments.

For more information, see section 8 of factsheet 38, *Property and paying for residential care*.

8 NHS Continuing Healthcare and nursing care

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 is the responsibility of the local Clinical Commissioning Group (CCG). An assessment looks at whether the nature, intensity, complexity, or unpredictability of your needs means they are beyond the level that a local authority has a duty to meet.

The local authority must refer you to the CCG when carrying out a needs assessment, if it seems you may be eligible for NHS CHC. If you receive NHS CHC, you do not have the choice of accommodation rights that apply under local authority arrangements. Reasonable efforts should be made to respond to your views.

NHS-funded nursing care

If you are not eligible for NHS CHC, but require nursing care, the NHS pay a contribution towards the cost of the nursing services. This is called NHS-funded nursing care (NHS FNC) and the amount is paid directly to the nursing home. For more information, see factsheet 20, *NHS Continuing Healthcare and NHS-funded nursing care*.

8.1 Other NHS services

Free NHS services you may be entitled to receive in a care home include 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 with the costs of glasses and NHS dentistry under the NHS Low Income Scheme, or through benefits such as Pension Credit Guarantee Credit. You are eligible for NHS continence supplies if you meet 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*.

Hospital discharge and care home care

When being discharged from hospital, you may be assessed by the NHS and social services to establish who must arrange on-going care once you leave. This can include a care home and is part of the discharge planning process. You have the right to refuse to be discharged to a care home and if so, they should consider if your needs can be met in another way. You do not have the right to remain in hospital indefinitely.

If placed in a care home 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 meet your assessed needs. See factsheet 37, *Hospital discharge* for more information.

9 Short-term and temporary care

Short-term and temporary care

Following a needs assessment, the local authority may agree you need a short-term or temporary care home placement. For example, this may be a short-term placement to give your carers a break (*'respite care'*).

If your stay is classed as short-term, defined as a stay not lasting more than eight weeks, the local authority can charge you as if you are receiving care and support in your own home.

If the local authority charge you under care home rules, they must take account of on-going responsibilities and costs you must meet at home when working out how much you can afford to pay towards the cost of your care. For more information, see factsheet 58, *Paying for short-term and temporary care in a care home*.

Short-term rehabilitation

NHS provided short-term rehabilitation in a care home is free of charge. Rehabilitation provided by the local authority (*'bed-based intermediate care'*), aims to help you maintain or regain the ability to live independently at home, usually after leaving hospital or to avoid hospital admission. It must be free of charge for up to six weeks. The authority can offer this free support for more than six weeks if needed. See factsheet 76, *Intermediate care and reablement* for more information.

10 If your care needs change

If the local authority arrange your care and your needs change, you can request a review of your care and support plan. If the review finds your needs have changed in a way that affects the plan, the local authority must carry out a new needs assessment and make any necessary changes to ensure your needs continue to be met.

For example, this may involve increasing the level of care you receive in your current placement, or arranging an alternative care home better suited to meeting your needs. For further information about care and support plan reviews, see section 10 of factsheet 41, *How to get care and support*.

If you have made private, self-funded arrangements, the care home should explore whether adjustments can be made to meet any increased needs. However, you may need to consider moving to a new care home to ensure you receive the services required to meet your needs. For example, if you now require nursing care, your current home may not be registered to provide this.

You may wish to request a needs assessment from the local authority, as this can be a good way of clarifying how your needs have changed and the care and support required to ensure they continue to be met.

11 If you lack mental capacity

If you lack mental capacity to make a decision about being placed in a care home because, for example, you have dementia, the decision must be made 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.

Any decision made on your behalf must be in your '*best interests*', as required by the *Mental Capacity Act 2005*. If being placed in a care home means you are deprived of your liberty, the procedures and protections in the Deprivation of Liberty Safeguards must also be followed.

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*.

12 Out-of-area and cross-border placements

If a local authority places you in a care home in another area in England, they retain responsibility for you and your ordinary residence remains with them (*'the deeming principle'*).

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

Cross-border placement within the UK

An English local authority can arrange cross-border care home placements in Wales, Scotland, and Northern Ireland. The English local authority retains responsibility for the placement, including funding arrangements.

13 The information, advice and advocacy duty

A local authority must provide accessible and appropriate information and advice relating to care and support. It 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.

13.1 The independent advocacy duty

If you struggle to understand or make decisions about your care and have no one you want to help you engage in the process, such as a relative or friend, the local authority must offer you an independent advocate. An advocate's role is to support and represent you throughout the care and support process, ensuring you are involved as fully as possible. 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.

14 Dealing with problems and complaining

Before going into 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. Make sure you tell someone about your problem, so you can begin to sort it out. If possible, problems should 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.

If you cannot resolve a complaint informally, you can raise a formal complaint. There are different complaint routes depending on whether the local authority or NHS arranges your care, or you have made private, self-funded arrangements.

You can contact the CQC to express 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. See section 16 for information about the CQC.

When the local authority makes the arrangement

If a problem arises with a local authority placement, use the complaints procedure of the local authority, as they have overall responsibility for your care. If you cannot resolve the complaint, ask the Local Government and Social Care Ombudsman (LGO) to consider your complaint.

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 fully funded by the NHS, you can use the NHS complaints procedure, as they are responsible for your care. You can complain 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*.

Self-funders

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. You can raise a formal complaint using the care home's internal procedure. If the complaint remains unresolved, ask the LGO to consider your complaint.

You also have protections under consumer law, as set out in the CMA advice. See section 15.

14.1 Abuse and neglect

If you have a concern about abuse or neglect, you should raise this with the local authority, which has safeguarding duties. Its safeguarding duties apply regardless of how the care is arranged and funded. See factsheet 78, *Safeguarding older people from abuse and neglect* for more information.

15 Consumer law protection for self-funders

If you make self-funded, private care home arrangements, you have certain protections under consumer law, as confirmed by the CMA advice to care home providers. The CMA advice sets out four key areas of consumer law that all care homes must comply with:

Information – you must be given clear, accurate information allowing you to make an informed decision about the care home before moving in

Fair treatment – you have the right to be treated fairly and the care home's contract must not put you at unfair disadvantage

Quality of service – services provided to you must be carried out with reasonable care and skill

Complaints – the care home must provide a fair, accessible, and easy to use complaints procedure

The CMA and local authority Trading Standards can take action if a care home fails to comply with consumer law. Get advice from Citizens Advice consumer helpline if you feel a care home has not met its obligations.

For more information, see the CMA advice at www.gov.uk/government/publications/care-homes-consumer-law-advice-for-providers/care-homes-and-consumer-law-short-guide-for-businesses

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, responsible for maintaining standards.

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.

CQC inspectors assess 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

Telephone 03000 616 161

Independent regulator of adult health and social care services in England, whether provided by the NHS, local authorities, private companies or voluntary organisations.

Citizens Advice consumer helpline

www.citizensadvice.org.uk/about-us/contact-us/contact-us/consumer-service

Telephone helpline 0808 223 1133

Consumer advice over the phone and online.

Competition and Markets Authority

www.gov.uk/government/organisations/competition-and-markets-authority

Telephone 020 3738 6000

Produced advice for care homes on complying with consumer law.

Equality Advisory Support Service

www.equalityadvisoryservice.com

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

Funded by the Equality and Human Rights Commission, the helpline provides information and advice about the *Equality Act 2010* and human rights.

Local Government and Social Care Ombudsman

www.lgo.org.uk

Telephone 0300 061 0614

Provides free, independent, service for complaints about councils and adult social care providers.

Parliamentary and Health Service Ombudsman

www.ombudsman.org.uk

Telephone 0345 015 4033

Investigates complaints about NHS care in England.

Relatives & Residents Association (The)

www.relres.org

Telephone 020 7359 8136

Provides 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 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

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

0300 303 4498

In Northern Ireland contact

Age NI

www.ageni.org

0808 808 7575

In Scotland contact

Age Scotland

www.agescotland.org.uk

0800 124 4222

Support our work

We rely on donations from our supporters to provide our guides and factsheets for free. If you would like to help us continue to provide vital services, support, information and advice, please make a donation today by visiting www.ageuk.org.uk/donate or by calling 0800 169 87 87.

Our publications are available in large print and audio formats

Next update July 2022

The evidence sources used to create this factsheet are available on request. Contact resources@ageuk.org.uk

This factsheet has been prepared by Age UK and contains general advice only, which we hope will be of use to you. Nothing in this factsheet should be construed as the giving of specific advice and it should not be relied on as a basis for any decision or action. Neither Age UK nor any of its subsidiary companies or charities accepts any liability arising from its use. We aim to ensure that the information is as up to date and accurate as possible, but please be warned that certain areas are subject to change from time to time. Please note that the inclusion of named agencies, websites, companies, products, services or publications in this factsheet does not constitute a recommendation or endorsement by Age UK or any of its subsidiary companies or charities.

Every effort has been made to ensure that the information contained in this factsheet is correct. However, things do change, so it is always a good idea to seek expert advice on your personal situation.

Age UK is a charitable company limited by guarantee and registered in England and Wales (registered charity number 1128267 and registered company number 6825798). The registered address is Tavis House, 1–6 Tavistock Square, London WC1H 9NA. Age UK and its subsidiary companies and charities form the Age UK Group, dedicated to improving later life.