



advice and support for older age

**Independent
Age**

Guide

Guide 73

Care Home Fees: Third party top ups in Wales

This guide explains when care home placements are paid for by local councils, and when a third party may need to pay a 'top-up' to cover the difference between the council's rate and the cost of the placement.

Last updated: October 2014

Our free advice service offers expert independent advice on social care, welfare benefits, and befriending schemes. Call **0800 319 6789** to arrange an appointment to speak to one of our advisers or email advice@independentage.org All our free guides and factsheets can be ordered by phone or email (as above) or downloaded from www.independentage.org



Contents

| | |
|---|---------|
| Moving into a care home | Page 3 |
| Choosing a care home to meet your needs | Page 5 |
| Choosing a care home that you prefer | Page 6 |
| How much should the local council pay? | Page 7 |
| Choosing a more expensive care home | Page 9 |
| Third party top-ups | Page 10 |
| Moving to a cheaper care home | Page 13 |
| Paying your own fees | Page 15 |
| Moving to a different area | Page 18 |
| Ordinary residence | Page 21 |
| Challenging decisions made by the local council | Page 23 |

1 Moving into a care home

If you are struggling to live at home, even with the support of care workers, you may want to consider moving into a care home.

To start the process, you need to contact your local council social services department and request an assessment of your care needs, particularly if you need support to pay the care fees either now or in the future. The assessment is known as a 'needs assessment'. Ideally the assessment should be carried out in your own home, with the support of a family member, a friend or an independent advocate if you so wish.

If the assessment agrees that you need to move into a care home because you have eligible care needs, the social services department will then assess your personal finances. This is known as a 'financial assessment'.

If you have savings and property over the value of £24,000, you will be expected to pay the fees of the care home yourself. If you have savings and property below £24,000, your local council is responsible for the full cost of your care home fees, but will assess how much you are able to pay towards the cost, depending on the level of your income and savings. As a general rule, all of your weekly income will be taken into account, except for £25.00 a week, which is your Personal Expenses Allowance (PEA).

Your financial assessment doesn't include the financial details of your spouse, civil partner, partner or any other family members. If the form asks for such details, it's reasonable to withhold these as it should only be your

finances which are being assessed. If your savings and property is below £24,000, your local council should make arrangements to ensure you are provided with the appropriate care to meet your needs and that this care is paid for by them with a contribution from your income.

For more information about needs assessments, see our guide Assessment and services from your local council in Wales (Guide 70).

For more information about the financial assessment, see our guide Care home fees: paying them in Wales (Guide 72).

The 'liable relative' law was repealed by the Welsh Assembly Government in April 2009 through the Charges for Residential Accommodation Guide (CRAG) [1]. If your partner is paying towards the cost of your care as a 'liable relative', you should contact an advice service, such as Independent Age (0800 319 6789, advice@independentage.org), as this should no longer be the case.

Local councils are provided with guidance by the Welsh Assembly Government which they must follow when they assess your contribution towards the care home fees. The Welsh Assembly Government regularly issue local authorities with updated versions. The system for paying the fees of a care home is explained in more detail in our guide Care Home Fees: paying them in Wales (Guide 72).

2 Choosing a care home to meet your needs

Your local council social services department should make sure you have information about care homes in their area which can meet your care needs. FirstStop Care Advice (020 7820 1343, housingcare.org) and the Care and Social Services Inspectorate Wales (CSSIW) (01443 848 450, cssiw.org.uk), also keep details of care homes in Wales.

Your local council should tell you the amount they will usually pay for someone with your care needs to live in a care in a care home. This amount is sometimes called the 'standard rate' or the 'usual cost'. It's important that you know how much the council is prepared to pay and what type of care home is needed before looking for or visiting care homes. Your local council will have a number of care homes which are their 'preferred providers' - these are care homes which will accept their standard rate. However, the rate that the local council will pay towards your care home fees should be based on your individual needs and the type of care home required as agreed and written in your care plan. You should be given a copy of your care plan by the social worker or care manager who carries out the assessment of your needs.

Local councils are told, within government guidance [2], that they should not set an arbitrary standard rate, but should pay a realistic amount to provide you with a suitable placement to meet your individual assessed needs, based on the availability of care home places.

3 Choosing a care home that you prefer

If you are council-funded, you can choose to live in any care home that meets your needs. Your local council has a duty, according to government guidance [3], to arrange a place in the accommodation of your choice, provided it meets four conditions:

- 'The accommodation is suitable in relation to the individual's assessed needs'

This means your local council will not pay for a care home that does not offer you the type of care that you need.

- 'The accommodation is available'

This means they can't arrange a place for you in your chosen care home if a room is not available, but they should be willing to consider making a temporary arrangement in another care home while you wait for a vacancy.

- 'The person in charge of the accommodation is willing to provide accommodation subject to the local authority's usual terms and conditions'

This means that the care home is willing to accept the council's usual contract terms for a care home placement, eg, this may include payment arrangements, and record keeping.

- 'To do so would not cost the local authority more than it would usually expect to pay for accommodation for someone with the individual's assessed needs'. See chapter 4 of this guide.

4 How much should the local council pay?

Although councils should set realistic rates for care home fees for various levels of care, they still need to show that these rates are reasonable on an individual basis. This means that they should pay enough to ensure that all your needs are met. So, if you are eligible for council funding, the amount your local council pays for your care should not depend on what they pay on average, or what they might pay for someone else with different needs. Instead, they should ask whether or not the care home you choose costs more than they would expect to pay to meet your individual needs.

For example, they should increase the rate if your assessed individual needs mean that:

- you need to move to a more expensive part of the country (see chapter 5)
- it costs more for your care because of your particular care needs. For example, if your first language is not English, it may be reasonable for your local council to pay more for you to stay in a care home where your first language is spoken if this is available
- you need to live in a care home that can meet your cultural, spiritual or religious needs. For example, the council may pay more for you to stay in a care home which is near to your usual place of worship or pay more for you to move into a religious care home
- you have specific needs, such as a hearing or visual impairment, and the care home is specifically designed to meet those needs
- you have special dietary requirements, or need specialist care, which can only be provided in specific homes.

For this reason, it's very important that the full extent of your care needs are identified and recorded during your needs assessment and stated explicitly in your care plan.

Your needs assessment should include not only your physical care needs, but also your psychological, emotional, social, religious and cultural needs as well. This can include your need to maintain family relationships and links with friends.

For example, say you have lived in a small country village all your life but care homes in your village are more expensive than those in the county town. If a move would isolate you from friends and family, it may be unreasonable for a council to limit their funding to only pay for a care home in the county town. Instead, it may be appropriate for them to fund you in a care home in your village, as long as the care home can meet all your other assessed care needs and has a place available.

If any needs have not been included as an essential part of your needs assessment and recorded in your care plan, you may want to request a review of your assessment to ensure they are included.

If you don't feel your local council is funding up to a rate which allows you to choose a care home which meets your assessed needs, you should consider making a complaint (see chapter 11).

5 Choosing a more expensive care home

Local councils are allowed to set a standard rate which they will pay for care in local care homes, which must be enough to give you a choice of suitable care homes in your area.

However, if you find an alternative care home outside of the preferred providers which will make a contract with the council at their agreed price, you should be able to move there. Problems may arise if the fee for the care home you have chosen is more than the rate the council would normally pay for the type of individual care you need. If this happens, you may still be able to move to that home if someone else pays the difference (see chapter 6).

The first step, however, is to see whether your local council will increase the rate it's prepared to pay for your care (see chapter 4).

It's important you check first that the amount your local council is willing to pay for your care is enough to fund a care home placement that meets your individual assessed needs.

6 Third party top-ups

If you are eligible for council funding and you prefer a more expensive care home than the one the council has offered you - and it's able to meet your individual assessed needs - you should still be able to move there if someone else agrees to pay the difference. This is called a 'third party top-up' and can be made by a friend, a relative or possibly a charitable organisation.

The third party who agrees to pay towards your care home fees will be asked to enter into a contract between themselves and the care home or the council, not the resident.

It's not possible for you to pay your own top-up. The only exceptions to this is during the initial 12-week property disregard period (if you own your own property), or if you have entered into a deferred payments agreement with the local social services (if you are funding your place in a care home yourself). For more information about property disregards and deferred payment agreements, see our guide *Care Home Fees: paying them in Wales (Guide 72)*.

Your local council should only ask for a third party top-up if the care home you want to go to genuinely costs more than one they have offered. If the council says the care home you want to go to costs too much, they must be able to show they can meet your individual needs properly in a cheaper care home, and that there is a place available.

For example, your local council has a standard rate of £405 a week. There are two care homes, both of which have a place available and are equally able to meet your individual

assessed needs. The first care home costs £405 but is quite basic; the second home costs £465 but is more 'luxurious'. If you choose the second, your local council would be within their right to ask for a third party top-up fee to cover the additional £60 a week, unless you can show why the less expensive care home does not meet your care needs.

If you are a third party paying the top-up

If you are a relative or friend of a resident who has a shortfall between what the council is prepared to pay and the fees that the care home charge, you should not be pressured into paying a top-up fee. If you are thinking about paying a top-up for a friend or family member, it's important to make sure beforehand that the local council is paying a reasonable rate to purchase the care required (see chapter 4).

Only sign a contract to pay a top-up if you are comfortable doing so. You should think about whether you can afford to pay the top-up now and in the future - especially as it could increase.

The council has a responsibility to check that it will be sustainable for you to keep up these payments for as long as the resident is in the care home, so they may ask for details of your finances. This is because it may be important for the council to know what will happen to the third party contribution if the fees go up (usually on an annual basis), as any increase may not be shared with the council. This may mean that your contribution as the third party will also go up whenever the fees increase. You should also be aware that if you are unable to keep up the

payments, the resident may have to move to a cheaper care home, if there is one, subject to a risk assessment of the impact of a move.

The Government guidance 'Charging for Residential Accommodation Guide' (CRAG), states that all parties (including the resident and the care home manager) must agree if a resident and third party are to pay their contributions directly to the care home. If you do not agree to this arrangement, the council should meet the full cost of the care home fees and invoice the resident for their contribution, and the third party for any top-up separately.

However, even if you arrange to pay your top-up directly to the care home, according to guidance [4] the council will continue to be liable to pay for the full cost of the care home fees, and should step in if either you or the resident fail to pay the required amount. The council will then have to identify if a third party payment can be made by someone else, or if you should move to a cheaper care home, (depending on the outcome of a risk assessment).

Before signing an agreement to become a third party, it may be worth consulting an advice service such as Independent Age (0800 319 6789, advice@independentage.org).

7 Moving to a cheaper care home

If you are moving from a care home where you previously paid your own fees, into a care home which the local council is contributing to or paying your fees, you have a number of entitlements. The local council must be able to demonstrate that the home you are moving into can meet all of your individual assessed needs.

Assessment

When you move from one care home to another, you should receive a single assessment which takes into account your differing needs, and involving professionals from both health and social care. This means that you will only have to answer questions once, and that your identified needs in all areas of your life are taken into account in the same care plan. You can have a member of your family, a friend or an independent advocate with you at the assessment if you wish. If you have no family, close friends or a representative, and you lack mental capacity to make a decision about medical treatment or an accommodation move, you have a right to an Independent Mental Capacity Advocate (IMCA) from the local council social services department. IMCAs may also be involved if it's felt that you would benefit from independent support in safeguarding (adult protection) proceedings, or care reviews. For more information about independent advocacy, see our guide *Independent Advocacy (Guide 25.)*

The assessment will take into account your personal, social, environmental and psychological needs. It must be demonstrated that the care home you are moving to can

meet all of these needs. If it can't meet your needs, and the local council is considering moving you, you may wish to consider challenging their decision using their complaints procedure (see chapter 11).

A risk assessment should also to be carried out within a Unified Assessment, under the 'Creating a Unified and Fair System for Assessing and Managing Care' guidance, to determine if it's detrimental to your physical or mental wellbeing to be moved from your current care home. This may be assessed jointly by the relevant professionals involved in your care, such as your GP and a psychogeriatrician, outlining their professional opinion about the effect of moving you to another home which should be taken into account in any decision. If social services agree that it's part of your assessed needs to remain in that home, they should increase the usual rate to pay for the full cost of the placement less your assessed contribution from your income.

8 Paying your own fees

If you have savings and property over £24,000, you will be expected to pay the full cost of your care home fees yourself. You can arrange this care in a care home without any involvement with the local council social services. However, you do have the right to have an individual assessment of your care needs, regardless of your financial situation. You can also receive support and assistance from the local council in finding a suitable care home if you can't make arrangements yourself or have no one to do it for you. Even if you do make arrangements yourself, the council should still give you advice on the type of care you need.

Of course, if you have sufficient resources, you are free to choose a care home at any price. But care home fees are expensive and if you live in one for a number of years your savings may soon be reduced to the upper capital limit of £24,000. When they do reduce to this limit, you will be eligible to apply for financial assistance from the local council towards the cost of your care home place. You should inform the local council where the care home is situated several months before your savings are due to decrease to this level.

At the point that the council has been notified that your capital is approaching the upper capital threshold, they should act within a reasonable time in terms of taking over the funding and conducting the necessary assessments. If they have allowed your capital to drop below £24,000, you may be entitled to a reimbursement but this will only be

paid if you or the person managing your financial affairs notified the council before your capital dropped below £24,000. Therefore, the council is only liable from the point that contact was made.

If the care home you have chosen costs more than the local council will usually pay for someone with your individual assessed needs, and the council will not agree to pay more, following a risk assessment, they may ask you to move to a less expensive home or ask you to arrange for a third party to meet the shortfall. If it's possible that you will at some point have to rely on local council funding towards your care home fees, you may wish to try to move into a care home that meets all your needs and that will accept the local council's rate, if possible. You may also want to arrange it so that the local council assesses your needs and, if possible, arrange your place. This way the council may be able to place you in a care home at the council's rate.

Alternatively, before moving in the care home, you may want to ask the care home if they are willing to accept the council's rate when financial help from the council is needed. Some care homes agree to do this on the basis that the resident has used a substantial amount of their savings on care fees to the home.

If you have capital in a property or substantial savings, you may benefit from receiving independent advice about the ways to invest this capital to pay for your care home fees. There are several organisations that can advise about the various financial products on the market to help people

invest their money to pay for future care home fees. As with any financial 'product', different products will suit different people's circumstances. You may want to seek advice from a range of organisations and/or advisers before making a financial commitment. For more information, see our guide Care Home Fees: paying them in Wales (Guide 72).

9 Moving to a different area

When your local council has agreed to fund you in a care home, you are free to choose a home anywhere in Wales. For example, you may wish to move to be near your family or back to the area where you were brought up. If you move to another country within the UK, you will need to arrange for a cross-border placement with your local social services. If your local council is paying your fees and you move to a different area, you will usually be paid for by the council that originally assessed your needs.

In some parts of Wales, you may find that care homes are much more expensive than in other areas. For example, homes in Cardiff and the South East of Wales tend to be more expensive than care homes in the North and West of Wales. If you are moving to a more expensive area, your local council should consider increasing their funding to enable you to move to a care home in that area, if it's part of your individual assessed needs. It's reasonable to expect them to pay the same as the rate paid by the council of the area you wish to move to. In order for them to do this, it's important that your reasons for moving to another area are included in your assessment and care plan. For example, it may be to be close to family and friends or to maintain social relationships. If they are not included, you should request a review of your care needs and make sure that your need to move to a care home in a new area is included in this and the resulting care plan.

Your local council only has to pay enough to cover the cost of the care you need in the area you require. It's therefore

important to find out (with the assistance of the local council) the cost of care homes in that area. You could also find out how much the local council in that area pays for places which it's funding. Sometimes a care home will negotiate with your local council and accept you at a lesser rate. Often care homes will charge a different rate if a person is being paid for by the council compared with a person who is paying his/her own fees. Therefore, when you are looking for a care home, it's important to tell the care home that your fees will be the responsibility of your local council.

If you require a nursing care home placement, then, although your current local council remains responsible for paying towards your care home fees if you are eligible for help, it will be the health board of the area that you move to who will be responsible for contributing towards your nursing care. Your nursing care payment will be altered to reflect the local scheme, so that the care home will receive funding from your original local council and the rate set by the local health board of the area you have moved to.

If you move to a care home in England, you will be assessed for nursing care, called the 'NHS-funded nursing care contribution', in the area you move to in England. This means you may want to find out how much of your care home fees your local authority will be responsible for and how much the local health board or health authority in the area you will be moving to will be responsible for.

When your local council has agreed to fund you in a care home, you are free to choose a home anywhere in England

or Wales. However, if you move to a care home in Scotland, there's no 'cross border agreement' so the arrangement will depend on your local council's discretion. They will have to agree any move with the local Scottish council covering the area you wish to move to.

If you move to a care home in Northern Ireland, again, unlike with England there's no 'cross border agreement', so your local council will have to agree any move with the local social services office within the Northern Health and Social Care Trust (northerntrust.hscni.net).

You can obtain information on care homes in different areas from the following organisations:

- FirstStop Care Advice (0800 377 7070, housingcare.org) provides information about care homes across the UK
- Care and Social Services Inspectorate Wales (CSSIW) (0300 062 8800, cssiw.org.uk) provides information about care homes in Wales
- Care Quality Commission (CQC) (03000 616 161, cqc.org.uk) provides information about care homes in England
- Care Inspectorate (0845 600 9527, careinspectorate.com) provides information about care homes in Scotland
- Regulation and Quality Improvement Authority (RQIA) (028 9051 7500, rqia.org.uk) provides information on care homes in Northern Ireland.

10 Ordinary residence

Ordinary residence is the place where you have settled to live in the short or long term. Local councils have to consider whether you are ordinarily resident in their area and, as such, whether you have a right to access public funding from them to help pay for your care.

Ordinary residency rules may become an issue if there is a dispute between two or more councils as to which one is responsible for paying for your care, or if you have just moved to the area. The council may take into account factors such as time (when you moved to the area), intention (if you wish to remain in the area) and continuity (if you have always lived there and the consistency of your residence), when deciding if their area should be treated as your settled place of residence.

While they are considering your ordinary residence, your local council should not delay in carrying out a needs assessment or providing services for you. It is the responsibility of the local council where you live currently to provide any care required to meet your immediate needs, especially if services are required urgently.

If you previously arranged to permanently go into a care home in a new area, without any local council having taken responsibility for the arrangements/funding, you will usually become ordinarily resident in the new area. Therefore, you will need to approach the council where the care home is situated for a needs assessment and funding when your savings approach the upper capital threshold of £24,000.

Where following an assessment, a local council arranges a placement in a private or voluntary care home in another local council's area, or in a care home provided by another local council, the 'placing' council will normally be responsible. The placing council will usually retain the same responsibility for the person's care that it has for someone living in its own area.

If there's a dispute about the ordinary residence of a person in need of services, it should be debated between the two councils (not between the council and the person needing care) after a needs assessment has been carried out and after any services have begun.

Where disputes cannot be resolved locally, then the disputing councils should refer the matter back to the Welsh Ministers within the Welsh Assembly Government, but only as a last resort.

11 Challenging decisions made by the local council

If your local council is not prepared to fund your care in the care home of your choice, despite your decision being based not only on preference but your assessed care needs, you may want to consider challenging the decision using their complaints procedure. Your first step is to try to resolve the matter informally. Explain why you need to move to or remain in a particular care home and why you feel this particular care home is the only one that can meet your individual care needs. Make sure that this information is included in your care plan and explain why you feel your local council should pay for this care.

You could also contact our advice service Independent Age (0800 319 6789, advice@independentage.org) to discuss your options. If you can't resolve matters at an informal level, you may need to make a formal complaint using the local council's complaints procedure.

For more information about making a complaint, see our guide Complaints about community care and NHS services in Wales (Guide 74).

[1] Charging for Residential Accommodation Guidance (CRAG)

[2] The 'National Assistance Act 1948 (Choice of Accommodation) Directions 1993'

[3] The Guidance on the National Assistance Act 1948 (Choice of Accommodation) Directions 1993

[4] Charging for Residential Accommodation Guidance (CRAG)

This guide is not a full explanation of the law and is aimed at people aged over 60.

If you need any of this information in another format (such as large-print or Braille), please contact our Information Manager on 020 7605 4294 or email comms@independentage.org

If you have found our advice useful, please consider supporting us by raising money, volunteering or making a donation. We receive no state funding and rely on support from individuals, trusts and other sources to continue providing our services to hundreds of thousands of people in need.

For further information on how to support us, please see our website independentage.org or call 020 7605 4288.

© Independent Age



Independent Age
6 Avonmore Road
London
W14 8RL

T 020 7605 4200
E charity@independentage.org
www.independentage.org
Advice line 0800 319 6789

[View our page on Facebook](#)

[Follow us on Twitter @IndependentAge](#)

Independent Age is the operating name of the Royal United Kingdom Beneficent Association Registered charity number 210729