


Top Up Policy



REVIEW SHEET			
Version:	2	Date Reviewed:	13-11-2024
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Were changes made:	Yes		
Summary:	This policy has undergone a schedule review, and changes have been made to the Top-Up Policy.		
Responsible Officer / Author(s):	Simon Smith/ Nathan Meech		
Responsible Senior Manager(s):	Phil Green		
Responsible Senior Manager(s) Signature:			
Service Area:	Adult Social Care		
Director Assistant Director Signature:			
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CHECK WHAT WORDS MEAN

Advocate	Someone who supports or speaks up for another person or cause.
Assessed Contribution	The amount the person is asked to pay from income they receive.
Best Interest Decision	The process of making decisions on behalf of an individual who lacks the mental capacity to make those decisions themselves.
Care Act 2014	Legislation in the UK that sets out the legal framework for social care and support for adults.
Care and Support Needs	The help and assistance required by individuals to maintain their well-being.
Care and Support Plan/ Planning	A formal document outlining the support and services an individual needs to meet their care requirements.
Commission/ Commissioning	A service funded or arranged by an organisation or authority for a specific purpose.
Eligible Need	Meeting the requirements for a particular benefit or service.
Financial Assessment	An evaluation of an individual's financial situation to determine their eligibility for financial support.
NHS Funded Nursing Care	The amount the NHS pays for the nursing care component of nursing care home fees.
Personal Budget	A Personal Budget is an allocated sum of money provided by the Council to people eligible for care and support services to meet their needs. People use this money in different ways e.g., for a Direct Payment.
Provider	The care home placement providing the care and support required.
Residential Care	Care provided in a residential setting such as a care home.
Nursing Care	Care provided in a nursing setting such as a care home.
Review	A review of a person's Care and Support Needs to ensure the current plan is meeting their need.
Section 117	Some people who have been kept in hospital under the Mental Health Act can get free help and support after they leave hospital. The law that gives this right is section 117 of the Mental Health Act, and it is often referred to as ' section 117 aftercare '.
Strength Based	Focusing on individual strengths rather than weaknesses.
Council	Cheshire West and Chester Council.
Think Local Act Person has a helpful website which provides meanings to words often used in social care – TLAP Care and Support Jargon Buster (thinklocalactpersonal.org.uk)	

WHAT IS A POLICY?

A policy is simply a plan of what to do:

- For people who work for the Council in Cheshire West and Chester, it tells them what to do in a particular situation and is usually written and agreed by the people who work within the Council, often talking to or including people who it will affect.
- For people who a policy will affect it means they know what they should expect.

This policy explains how and when top-up payments can be made towards Residential and Nursing Care.

The Executive Director of Adult Services has agreed this policy.



SUPPORT IN A CARE HOME PLACEMENT (RESIDENTIAL OR NURSING)

What does the Council do to know if a person is eligible for care and support?

To receive a public or paid for service from the Council, a person must have an Eligible Need for social care services. To decide if a person is eligible;

- The Council will want to understand the person's Care and Support Needs, they will do this by having a Strength Based conversation or doing a Strength Based assessment. The Council will use the Care Act (2014) to help them make their decision.
- The Council will look at what money the person has – this is called a Financial Assessment. This lets us know how much the person can afford to pay towards the cost of their support needs. The Council will follow the Care and Support (Charging and Assessment of Resources) Regulations 2014 as part of this process.

The Council call the total cost of support needed to meet a person's care and support needs, a person's Personal Budget. A Personal Budget specifies what the cost would be to the local authority of meeting someone's assessed eligible support needs for care and support.

The person pays the amount they have been assessed to pay and the Council tops up the difference.

- If a person decides to have less support than the Council has said they need, the Personal Budget will be changed to the correct amount needed.
- If their financial circumstances change, they will need a new Financial Assessment.

I am a self-funder

Where the Care and Support Planning process determines that the person's needs are best met in a care home placement there is no legal obligation for the Council to meet those needs or arrange these services. In most cases the Council will provide information and advice to support the person to identify a suitable care home placement but will not arrange this or Commission the service on the persons behalf.

In some cases, the Council may decide using powers under the Care Act to arrange and Commission a care home placement on a person's behalf if:

- The person requests it, and the Council agrees.
- The person lacks capacity, their legal representative requests it and the Council agrees.
- The person lacks capacity and has no legal representative or suitable person to arrange services on their behalf.
- The person has complex needs or needs that are likely to change (if so, it may be beneficial for the Council to arrange their service and maintain a statutory review function).
- The person's situation is unstable, or at risk of becoming unstable without support from the Council.
- The likely need for future Council involvement is high if arrangements are not made on the person's behalf.

Under the Care Act where the Council arranges a care home placement for a person who is self-funding it is preferable that the Local Authority:



- Commissions the service from the Provider directly; and
- Seeks full financial reimbursement from the person through the Financial Assessment process.

The Council may charge the self-funding person to arrange their care and support. In these instances, the Council will not charge more than the cost it incurs to arrange the persons care and support.

I am not a self-funder

Where the Care and Support Planning process determines that the person's needs are best met in a care home placement the Council will support by arranging and Commissioning a care home placement for the person at no charge.

The Council will arrange and Commission the care home placement the person chooses provided:

- The accommodation meets the persons assessed needs.
- The cost of that accommodation is no more than the council would usually expect to pay for someone with the persons assessed needs. There will be at least one choice which is at this price.
- The accommodation is available.
- The Provider agrees to the Council's usual terms and conditions.

A person can choose an option which costs more than the council would usually expect to pay for someone with the persons assessed needs. This would need to be paid by a 1st Party Top-Up or 3rd Party Top-Up.

TOP-UP'S

1st Top-Up

If the Council help to pay towards the cost of a person's care, the person will be given at least one suitable care home placement choice within their Personal Budget amount. If the person chooses a more expensive care home placement, there are specific circumstances they can contribute towards the cost in addition to their assessed charge, this is known as a 1st Party Top-Up. A Financial Assessment should be completed prior to a 1st Party Top-Up been agreed.

A 1st Party Top-Up is made by the person themselves; this is in addition to their Assessed Contribution; they can do this in specific circumstances:

- Where the person is subject to a 12-week property disregard.
- Where the person has a deferred payment agreement in place with the Council.
- Where the person is receiving accommodation provided under Section 117 for Mental Health Aftercare.

3rd Party Top-Up

If the Council help to pay towards the cost of a person's care, the person will be given at least one suitable care home placement choice within their Personal Budget amount. If the person chooses a more expensive care home placement, they must arrange for someone else to contribute towards the cost. This is known as



a 3rd Party Top-Up. A 3rd Party Top-Up is made by someone other than the person receiving the care (the 1st party), this is often a family member, friend, or charitable organisation.

The person paying the Top-Up may receive contributions from other people e.g., other family members, however it is the person paying the Top-Up who is ultimately responsible for ensuring the agreed amount is paid.

The Council is responsible for ensuring that the care home placement of choice meets the persons needs which will have been identified in the Care and Support Plan.

Where can a Top-Up be used?

A Top-Up can be made for a person receiving care in and support in a care home placement. A Top-Up should not be confused with the Assessed Contribution or with the NHS Funded Nursing Care (FNC) contribution.

Where can a Top-Up not be used?

If no suitable care home placement is available at a rate that the Council would usually expect to pay for someone with the persons assessed needs, the Council will adjust the persons Personal Budget to ensure the needs identified in their Care and Support Plan are met. This would be as a temporary arrangement for up to 12 weeks and the Council would seek to move the person to a care home placement at a rate that the Council would usually expect to pay for someone with the persons assessed needs after this time.

A Top-Up cannot be requested by the Council in the following situations:

- As the result of lack of availability within the care home market.
- When it is assessed as being in a person's Best Interests (Best Interest Decision) to remain in a specific care home placement under the Mental Capacity Act (2005).

In some circumstances the Council may need to consider needs on an individual basis such as those outlined below (not an exhaustive list). In circumstances such as these the Council would adjust the persons Personal Budget to ensure the needs identified in their Care and Support Plan are met rather than a Top-Up being paid by the 1st or 3rd Party.

- The person may have protected characteristics under the Equality Act and as such their Care and Support Needs can only be met in a care home placement specifically designed to meet such needs, for example:
 - The persons first language is not English, and it may be reasonable for the Council to pay more for a care home placement where there are staff and other residents who can speak the persons language.
 - The person may have additional cultural or spiritual needs which can only be met in a specific type of care home placement which can cater for these, or which is closer to the persons place of worship.
- The person needs to locate to a more expensive part of the country to be nearer family.



- The person requires special dietary requirements or requires specialist care, which can only be met in a home designed to meet such requirements.
- The person has very specific needs such as a hearing visual or physical impairment and the care home placement is specifically designed to meet such needs.

What does the 1st party need to do?

The Council will provide information to the person about a 1st Party Top-Up to enable them to make an informed decision. The Council will also take steps to ensure that the 1st Party Top-Up is affordable to the person for the duration of the care home placement by asking them to complete an affordability calculator which details their income and expenditure, supporting them to make the decision to have a 1st Party Top-Up based on their personal financial circumstances. Once this is done the Council will request the 1st Party signs a written agreement.

A written agreement is to be entered into where there is agreement that the 1st Party will meet the cost of a Top-Up, the agreement will include the following:

- The additional amount to be paid.
- Specific detail of the cost of the care.
- Frequency of payments.
- To whom and how the payments are to be made.
- Provisions for reviewing the agreement.
- A statement on the consequences of ceasing to make payments.
- A statement on the effect of any increases in charges the Provider may make.
- A statement on the effect of any changes in the financial circumstances of the 1st Party.

The Council is unable to confirm a care home placement until the 1st Party has agreed and signed up to the terms and conditions set out in the 1st Party Top-Up Agreement.

What does the 3rd party need to do?

The Council will provide information to the person about a 3rd Party Top-Up to enable them to make an informed decision. The Council will also take steps to ensure that the 3rd Party Top-Up is affordable to the person for the duration of the care home placement by asking them to provide details of their income and expenditure. Once this is done the Council will request the 3rd Party signs a written agreement.

A written agreement is to be entered into where there is agreement that the 3rd Party will meet the cost of a Top-Up, the agreement will include the following:

- The additional amount to be paid.
- Specific detail of the cost of the care.
- Frequency of payments.
- To whom and how the payments are to be made.



- Provisions for reviewing the agreement.
- A statement on the consequences of ceasing to make payments.
- A statement on the effect of any increases in charges the Provider may make.
- A statement on the effect of any changes in the financial circumstances of the person or 3rd party paying the top up.

The Council is unable to confirm a care home placement until the 3rd Party has agreed and signed up to the terms and conditions set out in the 3rd Party Top-Up Agreement.

If the care home placement increases their fees

The Top-Up amount may only increase by agreement between the Council and the person paying the Top-Up.

The person paying the Top-Up:

- The person paying the Top-Up is required to pay any increases which may occur if the care home placement review their fees, and this is not in line with the amount the Council would usually expect to pay for someone with the persons assessed needs.
- The person paying the Top-Up may negotiate the cost of the Top-Up with the care home placement if they wish.

The Council:

- If requested by the person paying the Top-Up the Council will provide access to an affordability calculator to see if the Top-Up remains affordable.
- The Council will ensure that a new Top-Up agreement is drafted and will send this to the person paying the Top-Up and the care home placement to sign.
- In some cases, if requested by the person, the Council will negotiate the Top-Up.

The Provider:

- The Provider is required to inform the Council if it decides to increase the Top-Up .

If a person can no longer afford to pay a Top-Up

The person paying the Top-Up:

- The person paying the Top-Up must inform the Council as soon as reasonably possible if they are no longer able to pay the Top-Up or if their circumstances change.

The Council:

- The Council will commence a negotiation with the care home placement to see if they will agree an amount which the Council would usually expect to pay for someone with the persons assessed needs.
- If the care home placement does not agree this amount the Council will undertake a Review of the persons Care and Support Needs to decide what steps should be taken next.



- Ultimately this could result in the person being moved to alternative accommodation.
- If the person is paying the Top-Up to the Council and has accrued any arrears, arrears/ debt recovery will be instigated by the Council.

The Provider:

- The Provider must inform the Council if the person paying the Top-Up informs them that they are no longer able to pay the Top-Up or if their circumstances change.

If the person is paying the Top-Up to the care home placement and has accrued any arrears, arrears/ debt recovery will be instigated by the care home placement.

WHAT IF A PERSON DOES NOT AGREE WITH THE OPTIONS THE COUNCIL HAS OFFERED?

People can ask for a decision to be looked at again and access an Advocate as part of this process. This should initially be discussed with a Social Care Manager who will review the decision. People can also use the Council's complaints procedure, which can be found at [Adult social care complaint | Cheshire West and Chester Council](#).

WHAT IF A PERSON DECLINES THE CARE AND SUPPORT WHICH HAS BEEN OFFERED TO THEM?

If a person chooses that they do not want to choose the care and support the Council have offered the Council will ensure that it has fulfilled its statutory duty to meet their needs. If the Council has, it will inform the person in writing that they need to make their own arrangements.

The Council will only do this as a last resort and the risks posed by such a step would need to be considered for both the person and the Council.

If the person contacts the Council again at a later date, the Council will reassess their needs and re-commence the Care and Support Planning Process.

APPENDICES

Appendix A – Top-Up Example

If the Council had a standard rate of £630 a week for Residential Care and there are two care homes available, both of which have a place and are equally able to meet the person's assessed needs. The first is quite basic as far as décor is concerned and costs £630 a week. The second is more luxurious and costs £700 a week. If, as is the case, both are equivalent in terms of meeting needs, then the Council will only fund the standard rate. If the person chooses the second more expensive option, then the Council would ask for a Top-Up to cover the additional £70 a week.

However, if the only available care home to meet all the persons needs was the second one, then the council would have to increase its standard rate to £700. This would be either because the more expensive care home was the only available option, or it was also supporting some additional needs. In either case the Council could not ask for a Top-Up.



RELATED DOCUMENTS

There are currently no forms attached to this policy.

Title	When would this be used?	Area	Created by



Accessing Cheshire West and Chester Council information and services

Council information is also available in audio, Braille, large print or other formats. If you would like information in another format or language, including British Sign Language, please email us at:

equalities@cheshirewestandchester.gov.uk

إذا أردت المعلومات بلغة أخرى أو بطريقة أخرى، نرجو أن تطلب ذلك منا.

যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান, তাহলে দয়া করে আমাদেরকে বলুন।

Pokud byste požadovali informace v jiném jazyce nebo formátu, kontaktujte nás

Jeżeli chcieliby Państwo uzyskać informacje w innym języku lub w innym formacie, prosimy dać nam znać.

ਜੇ ਇਹ ਜਾਣਕਾਰੀ ਤੁਹਾਨੂੰ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਵਿਚ ਜਾਂ ਕਿਸੇ ਹੋਰ ਰੂਪ ਵਿਚ ਚਾਹੀਦੀ, ਤਾਂ ਇਹ ਸਾਥੋਂ ਮੰਗ ਲਵੋ।

如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。

Türkçe bilgi almak istiyorsanız, bize başvurabilirsiniz.

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