



Leeds  
CITY COUNCIL

# Adults and Health

Public guidance on 3rd party top-up payments



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# 1. An introduction to top-up payments

## 1. Introduction

The Care Act 2014 is designed to put you in control, making it easier for you to make plans for your care and support now, and in the future.

If you are thinking about moving into a residential or nursing home, you may wish to consider the option of 'top-up payments'. This is when your family, or a friend - or you, in certain circumstances, chooses to pay more - on top of the money Leeds City Council pays. This could increase your choice of care home or the choice of accommodation in the care home.

This leaflet tells you about making these additional payments for residential accommodation costs and explains how to make these top-up payments.

Your social worker will explain and help you understand any aspects that you need any assistance with.

## 2. Financial Assessment

When it is agreed through the care planning process that you need residential accommodation, a care and support plan is made. This plan identifies your **eligible care needs**.

**Eligible care needs** include **accommodation** - which is one part of what payments are made for; and **care and support** - which is another part of what payments are made for.

So that your eligible care can be purchased, we - the council, will carry out a **financial assessment**. This will help work out the amount of money that the council will provide to pay for your eligible care needs

With your participation, we will then find suitable accommodation for you in a care home that is within the **council's contract framework rate**. This is the rate the council will pay towards a care home that it has a contract with, and that meets your eligible needs.

When we carry out your **financial assessment**, it will tell us if you can afford to contribute towards your care and support in your chosen care home. If so, you will need to make a **personal contribution**. This is different to contributions for more expensive accommodation.

### 3. Top up payments

If you want it - and your family, friends, or another third party agree to pay for more expensive accommodation, they can do this by making **top-up payments**.

Top-up payments can only be made for accommodation-related charges such as a more expensive care home, or a larger room.

**Top-up payments** are just for accommodation and are separate from **personal contributions** - which are for care and support.

Your **personal expenses allowance** is money for you to spend as you choose - and is also separate.

### 4. Review of your financial situation and residential care costs

#### Important

- From time to time, your care home will review its prices. Your financial situation will also be reviewed periodically, but not necessarily at the same time.
- Over time, the costs for eligible care needs are likely to increase. If you pay personal contributions towards your care and support, these contributions may also have to increase.
- When accommodation costs increase, then the amount of top-up payments may also need to be increased. Note however, that they may not increase at the same time or by the same rate or amount.
- Top-up payments will always be the difference between the council's framework rate, and the extra cost of more expensive chosen accommodation.
- If the care home does make a variation to the cost of the top-up payment it must inform you of this in writing by sending a Letter of Variation that explains what the increase is for, how much it is and give you 30 days notice in which time you can refuse to accept the increase.

- If the Council considers the level of increase to be unsustainable it does have the right to review the suitability of the placement.

## 2. Your right to choose your accommodation

The care planning process will make clear what type of residential accommodation you need. This could be for example, a care home - with or without nursing care.

The council must make sure there is sufficient money identified through the financial assessment to meet your essential care needs. It must also identify at least one available residential accommodation that is within our framework rate. You have the right to choose from different care homes in different locations - if there are care homes that can provide the right type of accommodation for your care needs.

Demand and availability may mean this is not possible; or that a wait is necessary for your preferred choice to become available.

Your social worker will give you a list of all of the relevant care homes that you can choose from. You may wish to live near to where you are living now; or may choose to move to a different area to be closer to your family; or move to a specialist home - such as one run by a religious organisation.

The care home you choose may charge more than the council's framework rate. There are many reasons why a care home may cost more. It may be for commercial business reasons, or because it considers that it provides accommodation of a superior standard. A large room or a room with a scenic view for example, is likely to cost more.

If you choose accommodation in a care home that costs more than the framework rate, then a third party top-up payment will be required.

The Care Act 2014 sets out a number of conditions that must be met before you can have your choice of accommodation approved by the council.

- The accommodation you choose must be suitable to meet your eligible care needs. Your social worker will advise you which types of

- accommodation are suitable to meet those needs.
- If top-up payments are to be paid, the council must be satisfied that the third party (such as a family member or friend) is willing and able to pay the extra cost of the accommodation you choose.
  - The provider of the accommodation you choose must agree to contract with the council and agree to provide you with accommodation subject to the council's usual terms and conditions.

If you choose a setting outside Leeds, then we will still pay the assessed contribution towards meeting your eligible needs.

Please speak to your social worker if you would like more advice, or if you want the council to arrange this.

### 3. Availability of accommodation and short-term care arrangements

#### **If the preferred choice of accommodation is not available but you cannot remain at home:**

If there are no spaces at the care home you choose or at the care home we consider suitable for your care needs, we will make an interim care arrangement. This is a temporary arrangement until the right care home becomes available.

If you have no access to top-up payments and the only temporary accommodation available costs more than the framework rate, the council will pay any difference. When suitable accommodation becomes available within the framework rate, or in the home of your choice, you will then move to that accommodation.

If you are assessed to make personal contributions for care and support, these will still be payable while you are in temporary accommodation.

#### **If you would like to stay on in the temporary accommodation provided by the council:**

If you like the care home or accommodation that you stay in on a temporary basis, you may want to continue living there. If it costs more than the framework

rate, top-up payments will be necessary. A third party (such as a family member of friend) must agree to make these payments and be willing to enter into a written agreement to do so.

### **If you are ready to be discharged from hospital but unable to go home:**

If you have been in hospital and require more care and support, you may need to move straight into residential accommodation rather than your home. Your social worker will discuss this with you in some detail, to help you choose your preferred care home.

When the hospital has agreed you can be discharged, there is often only a very short period of time to arrange accommodation. The care home you choose may not have any spaces, with such short notice; or the council may not consider it suitable for your care needs at that time. If this happens, you will need to move into interim accommodation until your preferred choice becomes available.

### **If you require respite care:**

Respite placements of 4 weeks or under will be managed directly by your designated Social Worker and this guidance does not apply. The person making the top-up payment must make all arrangements directly with the care home. A Written Agreement is not required.

## **4. Guidance for family or friends**

### **I am a considering making top-up payments as a third party - what does this mean for me?**

Leeds City Council will make sure you have access to all information and advice you need to make an informed decision. Ultimately the decision to pay for more expensive accommodation will be yours.

It is very important that you and the person you are wishing to make any top-up payment for are fully aware of the financial agreement you are entering into. You also need to be clear about the consequences should the top-up payments stop.

## You must:

- Discuss and make sure that both you and the care home understand what it is you are agreeing to pay for. **You will need to agree:**
  - how much it will cost
  - how and when the payments are to be made
  - when the charges will be reviewed

It is important to remember that it is you and not the council that is responsible for any payments agreed with the care home.

- Sign a **written agreement** stating that you are willing and able to meet the cost difference and will continue to do so for the expected length of the stay. This agreement is signed by you and the care home, then submitted to the council to provide the final signature.
- Satisfy the council that you can afford the top-up payments for the expected duration of the person's stay in the care home. One of the ways you can do this is to complete a **personal budget planner**. A personal budget planner is available from an independent financial advisor or from the council. This will assure both yourself and the council that the commitment you are making is affordable. Please see further information for more details.
- If a personal budget planner is not completed you should have a discussion with the Social Worker about your ability to afford to support someone financially for the duration of their expected stay.
- If you choose not to complete either a personal budget planner or have a discussion with a Social Worker; then by signing the Written Agreement you are making a declaration on your ability to pay. Remember that the council will take the action required to recoup any money owed should you default on payments.
- The council must be satisfied that top-up payments can be paid readily for the duration of the stay and that you have a minimum sum of money available to manage any personal contingencies that may occur.
- Provide a current council or utility bill, addressed to you. You must also

inform the council and the service provider if your home address changes.

- Pay top-up payments four weeks in advance. This is to allow time for the council to manage all its associated financial administration.
- Be aware that top-up fees may increase when the care home reviews their prices. The council has no control over this and cannot intervene on your behalf.

Once the council is satisfied that you can afford to make the top-up payments, we will approve the written agreement.

**If you become unable to maintain top-up payments:**

- You must notify the care home and Leeds City Council immediately.
- The person you have been making payments on behalf of will be reassessed. Depending on the outcome of this re-assessment, they may have to:
  - move to another room in the care home.
  - or move to another care home with fees that are within the council framework rate.
- Leeds City Council will cover the cost of any default payments to the care home in the first instance. However, all efforts will be then be made to recover the money via the council's debt recovery process.

## 5. How we look after your information if you are a provider of top-up payments

If you are providing top-up fees for a person receiving council care and support, we need your details, some personal information and documentation as proof of this. This helps satisfy us that you are able to make the top-up payments, which we are legally obliged to do.

We need a recent council or utility bill, addressed to you. You may also have completed a personal budget planner as supporting evidence of your ability to

maintain the payments.

Once these are seen and logged, they will be returned to you and any copies destroyed as confidential waste.

**While we hold your personal details or information:**

- We will comply with the law regarding the protection of personal information.
- We will make sure it is kept safely and is only seen by the staff who are supposed to see it.
- We will not keep it for longer than necessary.
- 

**The only time we may need to share any information about you** without asking you first is when legally obliged to do so, for example:

- When a serious crime has been committed; or
- When there's an obligation in line with the Care Act 2014
- Where we need to share your personal information we will do this in line with the law (the main law is the Data Protection Act 1998)

**You have a right to:**

- Ask for a copy of your records;
- Request that your records be corrected if they are wrong; and
- Ask us to change or remove your information if this is causing you harm or serious distress.

**If you have any complaint about the way we have used your information, you can contact:**

- The Complaints Manager (Adult Social Care) Leeds, PO Box 848, LS1 9PQ
- Email: [Complaints.socs@leeds.gov.uk](mailto:Complaints.socs@leeds.gov.uk)
- Telephone: 0113 2224405

## 6. Examples of when top-up payments may apply

The four scenarios below give examples of when people have chosen to make top

-up payments.

### **Planned move from home to residential care:**

George lives alone and has support from a care agency four times a day. The care agency provides all his meals and personal care. George's son, Ben deals with all the shopping and finances and generally visits daily.

As time goes on, George has occasions when he doesn't recognise his home and becomes very distressed unless Ben is with him. The community mental health team become involved; and respite care and social activities are provided as part of George's support plan. Further on, he begins ringing Ben several times a night in an agitated state, asking him to come around.

Over time, Ben's health deteriorates and he is unable to continue providing the support his father needs. After thorough discussion, it is agreed that it is in George's best interest for him to move into 24 hour residential care. As he requires local authority funding, a financial assessment is carried out as part of his care and support plan.

With support from the social worker, Ben identifies a suitable residential placement. It costs more than the council's framework rate but has a room overlooking a park, which Ben is happy to make top-up payments for.

### **Urgent move from home to residential care:**

Mary has severe dementia and lives with her daughter, Beth. She cannot be left alone even for short periods. While Mary receives support from a care agency with personal care through the day, Beth carries out all other daytime tasks and toileting assistance during the night.

Beth is admitted to hospital at short notice with symptoms suggesting she has had a stroke. Mary's granddaughter makes an urgent referral and it is agreed that Mary needs a residential placement. Mary's granddaughter knows of a residential home near to where she lives and asks that Mary be placed there so she can visit her daily. This residential home charges above local authority rates but Mary's granddaughter is willing and able to make the top-up payments.

## **Move from hospital to temporary residential care:**

Clive fractured his hip in a fall at home and was taken to hospital. He requires lifting by hoist several times daily but is well enough to be discharged from hospital. Due to the layout of his property and the adaptations that would have to be made, Clive is not able to return home, in the short-term.

He cannot however, remain in hospital so requires a temporary placement. Suitable accommodation is found at a cost within the council's framework rate, but he objects to being far from his home, as he wants his friends to be easily able to visit.

More expensive accommodation is available nearer to his home, and a friend agrees to make the top-up payments.

## **Respite:**

'Replacement care', also commonly known as 'respite care', is an arrangement for unpaid carers to receive rest or relief. Its aim is to support carers to have a break from their caring responsibilities.

For example, Frank has dementia and lives with his daughter Tracey and her family. Tracey and her family plan to take a holiday abroad and need respite care for Frank while they are away.

The council agrees to fund two weeks respite care but Tracey is concerned that the care home the council recommended is too far away for Frank's friends to visit. Frank benefits greatly from his friends' company and Tracey wants to make sure they can get to see him easily.

Frank's social worker provides details of other care homes that are nearer but the accommodation costs more than the council can pay. Tracey agrees to pay the difference so that she is sure that Frank can receive the company he enjoys while she is away.

**Important:** If respite care is for 4 weeks or less a Written Agreement is not required and the Resident Representative should liaise directly with the Care Home. If there is a default on a payment, and the Council has to reimburse the Care Home, then the Council will seek payment from the Resident Representative

through the normal debt recovery process.

## 7. Further information and independent advice

The [Money Advice Service](#) provides an easy to use budget planner that can be accessed **here**. It is recommended that you use this budget planning tool to decide that you can afford to make the top-up payments.

If you are not able to complete an online budget planner, the social worker concerned can provide you with an e-version to download and print off, or a paper copy. Alternatively you can download a copy from the 3rd Party Top-Up page on the Council website.

[Age UK](#) are able to provide advice and assistance. They also produce a **guide to care homes** that includes an explanation of top-up payments.

The consumer site [Which?](#) provides information and advice on care homes and how they are funded. The site includes a specific section on **financing a care home** that includes information on top-up payments.

[Leeds Directory](#) has links to independent financial advice and other information such as care homes in the Leeds area.

### External Links

Money Advice Service = <https://www.moneyadvice.service.org.uk/en>

Age Uk = <https://www.ageuk.org.uk/information-advice/care/care-homes/paying-for-a-care-home/>

Which? = <https://www.which.co.uk/elderly-care/financing-care/financing-a-care-home/436230-paying-for-a-care-home?>

Leeds Directory = <http://leedsdirectory.org/>