

*Document uncontrolled when printed*

## Adult Social Care

Version: 1.

Customer Top Up Information
Guidance.

Applicable to:	Adult Social Care
----------------	-------------------

Approval date	27 April 2018
Planned review date	26 April 2019


## TABLE OF CONTENTS

<b>Reason for this top up policy guidance</b>	3
<b>Right to choose own accommodation</b>	4
<b>If the person is in hospital</b>	5
<b>Customer or third party top up payments</b>	5/6
<b>Key points to note before agreeing to a top up arrangement</b>	6/7
<b>What will be in the written agreement?</b>	7
<b>Accommodation under Section 117 of the Mental Health Act 1983</b>	7/8
<b>Process/flowchart</b>	9

**Reason for this top up policy guidance or why we need a Top up policy guidance**

This document is to guide everyone involved in the process of ensuring a smooth transfer of people considering moving from their homes or hospital into supported accommodation. The general principle governing this guidance is to ensure that there is clarity on the information we provide as they consider the options available to them.

Does this policy only apply to those people considering moving from their homes?

The Choice of accommodation and Top up must extend to where the care and support planning process has determined that a person needs to live in a specific type of accommodation to meet their care and support needs. The Top up policy should apply to accommodation specified in regulations for example a care home, shared lives, extra care housing and supported living.

In line with the Care Act, Lambeth Adult Social Care seeks to ensure that an appropriate proportionate response is taken in the delivery of social care intervention. Therefore, nothing in this protocol diverts away from the core principles of the Care Act.

## 1. Purpose of customer Top up information

This guidance outlines the 'top-up' arrangements for a person receiving care and support in one of the following settings:

- Registered residential or nursing care home
- Supported living accommodation
- Shared lives scheme

If a person wishes to choose a placement costing more than the amount that has been specified in their personal budget for the provision of accommodation of that type, then the council can seek a top-up payment.

For the purposes of this guidance a personal budget is the cost to the council of meeting those needs which it is required, or has decided, to meet and identified these needs in the persons care and support plan.

## 2. Right to choose

The care planning process will identify how needs are to be met. Where this involves one of the above types of accommodation (set out above), then the person will have a right to choose between different services providers or locations, subject to certain conditions. The person may wish to choose a placement near to where they live; or opt to move to a different area to be closer to family; or choose a specialist home such as one run by a religious organisation. *Cross-border regulations are in place should someone wish to be placed in Wales, Scotland or Northern Ireland.*

There are 6 conditions which needs to be met in determining choice:

### Needs

The care and support plan (or carers support plan incorporating services for a cared for person) must specify that a persons' needs will be met in a care home; shared lives scheme; or a supported living accommodation setting.

### The type of accommodation

The preferred accommodation must be the same as is specified in the persons plan. A person is not able, for example, to choose a particular care home if their care and support plan specifies that their needs are to be met by the provision of supported living accommodation, shared lives or extra care housing.

## **Suitability**

The accommodation must be suitable to meet a person's assessed needs.

## **Cost**

The council must ensure that more than one option is available and that the amount in the personal budget is sufficient to meet the persons' needs; and importantly that at least one of the options is within the individual's personal budget.

## **Availability**

The accommodation must be available. If the person wishes to live in a specific care setting and it is not available at that time then it may be necessary for them to go on a waiting list until a vacancy is available. In this event interim arrangements will be put in place, which could involve a temporary stay in alternative accommodation or a package of care in the person's home. The local authority must provide the person with clear information in writing on the detail of the arrangements as part of their care and support plan. This should include the likely duration of the arrangement, information on the operation of the waiting list for their preferred setting alongside any other information that may be relevant. The local authority must also set out how long the interim arrangement may last for. If any interim arrangements exceed 12 weeks, the person may be reassessed to ensure that both the interim and the preferred option are still able to meet the person's needs and that remains their choice.

## **Terms and conditions**

The service provider of the specified accommodation must agree to the council's usual terms and conditions. We refer to this as the service agreement (contract), which the provider must sign before the service can go ahead.

### **3. If the person is in hospital**

If the person is going to move from hospital to accommodation of their choice, then once that person has been assessed as ready to leave hospital the law requires that the council must arrange their move within a very short period. If the accommodation that they choose does not have an available vacancy, the hospital will NOT allow the person to stay in hospital until a place becomes available – in this circumstance the person will need to be placed in a temporary placement, as set out above.

## 4. Customer or third party top-up payments

The person may choose an accommodation setting that costs more than the amount identified in their personal budget. Where they have chosen a setting that costs more than this, an arrangement will need to be made as to how the difference will be met. If they do, then they (in certain circumstances) or a family member, friend or charity, must be willing and able to make a top-up payment to cover the difference between the service providers weekly rate and the amount in the person's personal budget for the duration of their stay. This is referred to locally as a customer or third party top-up payment. Any third-party can agree to make top-up payments on the customers behalf provided that the council is satisfied that they can afford to do so for the likely duration of the placement.

A customer is only able to make top up payments where:

- \*They have entered into a Deferred Payment Agreement for their care and support charges;
- \* They are within the first 12 weeks of becoming a permanent resident in a care home, during which the value of their property is being disregarded for the purposes of the council's financial assessment; *or*
- \*The accommodation is being provided under Section 117 of the Mental Health Act 1983

**The amount identified in a persons' personal budget will be sufficient to meet their needs and the council will aim to offer the person an appropriate and safe accommodation option to meet their needs. Please note that the range of availability would be depended on the person's needs and the type of options available in the market. Therefore, the availability of accommodation may be limited because a number of care providers may not have the capacity to manage the person's unique needs.**

The council will not force someone into paying a top-up fee if there is no suitable accommodation available to meet their assessed eligible needs. In these circumstances, the council is obligated to continue to explore the care market in order to find suitable accommodation.

## 5. Key points to note before commencing with a top-up arrangement

It is important that customers are aware of the following:

- The person paying the top-up should be aware that the top-up amount may vary as service providers' review their fee levels and this may affect the level of the top up payment. However, the provider must inform the council of any planned fee increases and should never approach the person making the 3<sup>rd</sup> party payments.

The personal budget will be considered in the regular reviews of a customer's care and support plan and may be adjusted in response to increase in their care needs. This may result in the top up amount being reduced.

The service provider of the preferred accommodation may increase their costs. Unless this is matched by an increase in the customer's personal budget the additional cost will be passed on to the payer of the top up. If the top up amount increases in this way the council may need to review whether the payer is able to maintain the top up payments.

The top-up payment will always be the difference between the service providers' weekly rate and the persons' personal budget.

Whoever is paying the top-up i.e. the customer or the third party will need to sign a written agreement confirming that they are willing and able to meet the difference in cost and will continue to do so throughout the persons stay. The preferred placement will not commence without a signed agreement being in place.

In certain circumstances and depending on the size of the top up amount, the council may require the person who has agreed to top up to provide evidence of how they would afford the weekly payment. They may be asked to provide details of their assets and liabilities, as well as their income and expenditure.

If the person paying the top-up CANNOT satisfy the Council that they will be able to afford the top up for the duration of the person's stay, then the Council will NOT agree to arrange care and support with the preferred service provider.

If the person paying the top-up is unable to continue to pay the difference then the service user will have to move to another room within the accommodation or to other accommodation that charges fees that are within the amount set in the persons' personal budget.

Any move to other accommodation will only take place after re-assessment of the persons needs to make sure that the alternate accommodation is right for them.

Where the council incurs the costs of the top up payment prior to making alternative arrangements within the customer's personal budget, the council will seek to recover these costs from the top up payer under the top up agreement.

If the council is unable to transfer the service user to an alternative accommodation and the council subsequently has to take over the original top up amount, recovery action may be taken against the top up payer.

With respect of the comment- you should include provisions for reviewing the agreement and if the person paying the top up dies, this should trigger a review of the agreement.

## 6. Reviewing the Top up agreement

A Top up agreement must be reviewed. The local authority must set out in writing details of how the arrangements will be reviewed, what may trigger a review, and circumstances when any party can request a review

### **6. What will be in the written agreement?**

- The amount of the top up payment
- The amount of the person's personal budget
- How often payments are to be paid
- To whom the payments must be paid
- The consequences should the person be unable to continue to make a payment.
- The effect of any increases in charges made by the service provider
- The effect of any changes in the financial circumstances of the person paying the top-up

## **7. Accommodation under Section 117 of the Mental Health Act 1983**

A person who qualifies for the provision of aftercare services under S117 of the 1983 Mental Health Act may be provided with accommodation where necessary to meet needs arising from their mental disorder. If provided with accommodation under that section the person has the same rights to choose their preferred accommodation as above, save for the following differences:

- Instead of a care and support plan they will have an aftercare plan, which would be reviewed regularly or at least once a year to determine if the section 117 needs to continue.

S.117 After care under the Mental Health Act is provided free of charge. The care plan should be drawn up under guidance on the Care Programme Approach (CPA). However S.117A of the Mental Health Act makes provision for the person concerned to pay additional cost for the person's preferred accommodation

- They will not have a personal budget. A top up payment will therefore be required where the cost of the preferred accommodation exceeds the usual costs to the Council of providing that type of accommodation. The top up amount will be the difference between this usual cost and the cost of the preferred placement.
- The choice of accommodation will only apply to people over 18 years of age.

## 8. Process/Flow Chart (process once an alternative choice has been identified)



