

# Adult Social Care

Making a Difference in the Right Way, Every Day

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## Choice of Accommodation Policy

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**Solihull**  
METROPOLITAN  
BOROUGH COUNCIL

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## **1. CHOICE OF ACCOMMODATION POLICY**

An individual's ability to make an informed choice is a key element of their care and support planning. This extends to where the care and support planning process has determined that an individual requires a specific type of accommodation to meet their needs.

This policy covers; the choice of accommodation when arranging care and support; and outlines additional or 'top-up' payments for preferred accommodation. Further information on additional or 'top up' payments can be found in the Council's Top Up Policy

Choice of accommodation here shall refer to where the care planning process has determined that a person's long-term support needs are best met in a care home, where certain conditions are met.

## **2. INTRODUCTION**

An individual's ability to make informed choices and have control over how they live is emphasised throughout the Care Act 2014 and is key to maximising wellbeing and supporting a person-centred approach in the care and support planning process. It is also central to the Adult Care and Support offer, 'Our Offer to You'.

The care and support planning process will identify the individual's needs, their preferences and where appropriate a particular type of accommodation to best meet their identified care and support needs. This could be, for example, a Care Home, or Extra Care Housing.

Where the type of accommodation is one of those specified within the Care & Support/After-Care (Choice of Accommodation) Regulations 2014, the individual will have the right to choose the provider or location. This applies as long as their assessed needs and identified outcomes would be met and their choice would not cost the Council more than the amount specified in their personal budget for accommodation of this type.

Individuals have the right to choose more expensive accommodation than the amount specified in their personal budget for the provision of accommodation, as long as an arrangement is made as to how the difference in cost will be met. This is known as an additional cost or 'top up' payment.

## **3. SCOPE**

The right to a choice of accommodation and the payment of additional costs (including third party top up fees and enhancement payments to care homes for activities) applies equally to those entering care for the first time, those who have already been placed by the Local Authority and those who have been self-funders who may subsequently require Council support.

## **Guiding Principles**

- Good communication of clear information and advice to ensure well informed decisions.
- A consistent approach to ensure genuine choice.
- Clear and transparent arrangements for choice of accommodation and any 'top-up' arrangements.
- Responsibility to deliver social care services in a cost-effective manner that meets the needs of individuals within available resources.
- Clear understanding of potential consequences should 'top-up' arrangements fail as set out in section 10 of this policy.
- The choice is suitable to meet the individual's needs as identified by the care and support planning process.

## **4. CHOICE OF ACCOMMODATION**

Where an individual is assessed to need a particular type of accommodation in order to meet their care and support needs it is the right of the individual to choose between different providers of that type of accommodation provided the following criteria is met:

- The preferred accommodation is suitable in relation to the individual's assessed needs, including relating to age, culture, religion, and ethnicity.
- To accept the individual's preferred option would not cost the Council more than the amount specified in the adult's personal budget for accommodation of that type.
- The preferred accommodation is available; and
- The Provider of that accommodation is willing to enter into a contract with the Council to provide the care identified in the individual's personal budget on the local authority's terms and conditions.

## **5. SUITABILITY OF ACCOMMODATION**

The Council will ensure that the accommodation chosen by the individual will meet their needs and the outcomes identified during the care and support planning process.

This Choice of Accommodation Policy only applies to settings in which an individual's needs and preferences, agreed through the care and support planning process will be met, not the type of accommodation.

Therefore, if the process identifies that one type of accommodation is needed (e.g. a residential care home), the individual can choose from providers of this type but does not have the right to choose other types of accommodation e.g. nursing home.

Choice for the person shall not be limited to those settings or individual providers with which the Council already contracts with or operates, or those that are within the Solihull geographical boundary. A genuine choice across the appropriate provision will be identified based on the outcome of the care planning process.

## **6. COSTS**

The care and support planning process will identify how best to meet the individual's needs, taking into account the individual's circumstances and the availability of provision.

- The Council will provide the individual with a personal budget.
- The Council will ensure that at least one option is available that is affordable within the individual's personal budget, and where possible will try to ensure there is more than one such option.
- Individuals who wish to choose more expensive accommodation than those offered by the Council can do so by way of an additional payment or 'top up'. This is the difference between the amount specified within the personal budget and the actual cost. See 'Additional Payments - Top Up Fees' section later in this document.

## **7. AVAILABILITY AND INTERIM ACCOMMODATION**

In most cases an individual should not have to wait for their assessed needs to be met. However, in some cases this may be unavoidable, particularly when an individual has chosen a setting that is not immediately available.

In such cases, the Council will ensure that an interim adequate alternative within the personal budget is available. Where an individual contributes to their care following a financial assessment, they must not be asked to pay more than their assessment shows they can afford.

In the event of emergency placements, the Council will take all reasonable steps to ensure the person's choice of accommodation is taken into account within the scope of the Care Act.

## **8. ACCOMMODATION LEAVING A TEMPORARY CARE HOME**

The Council will endeavour to offer a suitable long-term care home placement to support a person's discharge from hospital or move from a short-term stay temporary

setting. The person or their representative acting on their behalf have a responsibility to view and decide on a long-term care home offer in a timely manner.

Should an offer not be viewed in a timely manner and the vacancy is lost, this will still constitute as an offer made by the Council. The Council defines 'timely' as viewing a home and making a decision within 2 days.

In the event of exceptional circumstances preventing the individual to meet the two-day timescale, this must be communicated to the person's assigned social care worker, so that a revised timescale agreed.

If subsequent offers are more expensive than previous offers made by the Council, then additional fees (top ups) will apply. (Please see Section 10).

Where an individual is receiving free care in a temporary setting for a short-term stay (hospital discharge pathway), and a suitable long-term accommodation is not immediately available, the Council will ensure there is a suitable offer for the interim period.

## **9. CHOICE THAT CANNOT BE MET AND REFUSAL OF ARRANGEMENTS**

The Council will do everything it can to meet the individual's choice within the context of this policy. However, inevitably there will be some instances where a choice cannot be met, for example the provider does not have capacity to accommodate the individual.

Where an individual refuses an offer based on preference rather than need, Solihull Metropolitan Borough Council will consider that it has fulfilled its statutory duty to meet needs. The individual will be informed in writing that as a result they need to make their own arrangements. This will be a step of last resort, and the Council will consider the risks posed by such an approach, for both the Council itself and the individual concerned.

Individuals have the right to use Solihull Metropolitan Borough Council's Statutory Complaints Procedure to take forward any complaints associated with these arrangements. It is good practice that individuals are provided with details about how to make a complaint.

## **10. ADDITIONAL PAYMENTS 'TOP-UP' FEES**

Individuals have the right to choose more expensive accommodation that exceeds the amount set out in their personal budget or Mental Health Act Section 117 after care plan. The difference between the actual cost of this accommodation and the amount specified in a person budget (or equivalent) is known as a 'top up payment'.

The Council's Top Up policy sets out the eligibility criteria for approving a top up for more expensive accommodation chosen by the person or their legal representatives.



The person required to pay the agreed top up must demonstrate they can afford and sustain the payments providing certain eligibility criteria is met.

If the person making the top-up is at risk of not being able to pay, attempts would be made to negotiate with the provider a reduction in the top-up to an affordable rate. Where this is not possible an alternative provider may need to be sought after a new care needs assessment. It may be necessary for the person receiving care to move to alternative residential accommodation.

When an individual chooses a more expensive setting, the Council will provide information and advice to ensure they understand the full implications of this choice.

For full terms and conditions please refer to the Council's Top Up Policy:

<https://www.solihull.gov.uk/About-the-Council/policies-adult-social-care>

## **11. PEOPLE WHO ARE UNABLE TO MAKE THEIR OWN CHOICE**

In cases where an individual lacks capacity to express a choice for themselves, the Council must take account of the choices expressed by the individual's advocate, carer, family member or follow appropriate choice of a person with relevant Lasting Power of Attorney in reaching a decision. This will be managed via the Best Interests Assessment process.

## **12. SELF-FUNDERS**

A person who exceeds the upper capital limit for help towards the cost of their care, can ask the Council to arrange their care and support for them. For the purpose of this policy, these people shall be referred to as 'self-funders'.

Where the person's needs are to be met by care in a care home, the Council may choose to meet those needs and arrange the care but is not required to do so.

If the Council agrees to arrange care for a self-funder, the Council reserves the right to contract with a preferred provider and shall ensure there are clear arrangements in place to set out the costs required to be paid by the self-funder, including any top up payments.

Alternatively, the Council may choose to broker a placement for the person and in doing so the person will be required to contract with the care home directly.

Where the Council does not agree to arrange care and support, the self-funder will be required to make their own arrangements to contract with the home directly.

Where the Council is arranging and managing the contract with the provider, it should ensure that there are clear arrangements in place as to how the costs will be met, including any 'top-up' element.



### 13. CHOICE OF ACCOMMODATION AND MENTAL HEALTH AFTER-CARE

Section 117 of the Mental Health Act 1983 enable people who qualify for after-care under to express a preference for particular accommodation, if accommodation of that type is to be provided as part of the after care. The Council and ICB who are jointly responsible for meeting these needs, are required to provide or arrange the provision of the preferred accommodation if it meets assessed needs (see 5 Suitability of Accommodation above).

S117 broadly gives the same rights to choice of accommodation as those who receive care under the Care Act. However, aftercare is provided free of charge and the care plan should be drawn up under guidance within the Care Approach Programme (CPA).

An individual has the right to choose accommodation provided that:

- The preferred accommodation is of the same type that the Council and ICB have decided to provide or arrange;
- It is suitable for the individual's needs;
- It is available (for mental health after-care purposes, 'assessed needs' means needs identified in the CPA care plan); and
- Where the accommodation is not provided by the Council, the provider of the accommodation agrees to provide the accommodation to the individual on the council's or ICB's terms.

The principles set out in this document apply equally to where the Council is arranging accommodation in discharge of its aftercare duty. Guidance also applies to when the preferred choice cannot be met.

Where the cost of the accommodation is more than the local authority and ICB would provide within the Mental Health Act Section 117 after care plan the Council / ICB must arrange for the individual to be placed there, provided that either the individual or a third party is willing and able to meet the additional cost.

For the purposes of section 117 aftercare reference to a third party should be read as including the adult receiving the aftercare.

For further information on mental health after care please visit:

<https://www.nhs.uk/conditions/social-care-and-support-guide/care-after-a-hospital-stay/mental-health-aftercare/>

### 14. ANNUAL CARE REVIEWS

The Council will undertake reviews of individuals care and support needs to assess the suitability of care arrangements in place.

## **15. COMPLAINTS**

Any disputes in relation to the Choice of Accommodation Policy will be subject to Solihull Metropolitan Borough Council's statutory complaints procedure.

## **16. RELEVANT POLICIES**

This policy should be read in conjunction with the following Council policies

- Top Up Policy
- Charging Policy - Non-Residential Care and Support Services
- Adult Social Care and Support Complaints Policy

All policies can be found online at <https://www.solihull.gov.uk/About-the-Council/policies-adult-social-care>

## **17. POLICY REVIEWS**

This policy will be reviewed in line with key legislative changes and case law to ensure it reflects the latest statutory guidance.

