

Care Home Top Up Policy



Key Information

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Contents

1	Introduction	5
2	Purpose.....	5
3	What is a Third Party Top Up?	5
4	What is a First Party Top up?	6
5	Individual Choice and Additional Payments	6
6	What is a Top Up Agreement?	8
7	The Top Up Agreement Amount	9
8	What is the responsibility of the Care Home Provider?	9
9	What happens if the care home increases their fees?	10
10	What happens if the Third Party stops paying the Top Up?	10
11	National Fraud Initiative	11
	Glossary	12

1 Introduction

- 1.1 When a person enters a care home that is more expensive than the amount the Council would usually expect to pay, an arrangement will need to be made as to how the difference will be met. This is known as the “top up” or “additional payment.”

2 Purpose

- 2.1 The purpose of this policy is to explain the process applied to agree a Third or First party top up. This policy is supplementary to the policy “Paying for Residential and Nursing Care” (see link [here](#) and on the Council website).

3 What is a Third Party Top Up?

- 3.1 A person who has decided to choose a care home that is more expensive than the amount the Council would usually expect to pay, (detailed on the Council website [here](#)) can use a third party to pay the additional costs. This is called a third party top up.
- 3.2 A third party is usually a family member or a friend, but it can be anyone who agrees to meet the additional costs and meets the financial criteria.
- 3.3 Only one person can be named as being the third party contributor, but this does not mean that family members cannot get together and agree to fund the top up between themselves. However, it does mean that only one member of the family is responsible for making the top up payment. This person will be the one who will hold the liability for any default on payment.
- 3.4 A third party top up can only be used when the cost of care is more expensive than the agreed rate that the Council would usually expect to pay for that particular care provider.
- 3.5 The third party must be able to;
- maintain the top up payments for the duration of the Service User’s stay in care and cannot use the cared for person's savings or income to fund the top up payments.
 - provide personal financial information, for the Council to be satisfied that the third party can meet the terms of the Agreement. Please refer to section 7 for further information.
 - provide information/evidence, that they have savings or disposable income to the value of at least three years’ worth of the required top up amount, or be able

to demonstrate that they have weekly income that exceeds their weekly expenditure by the required top up amount.

4 What is a First Party Top up?

4.1 The person whose needs are to be met by residential or nursing care may choose to make a top-up payment themselves, but this is only allowed in the following circumstances:

- Where they own a property, and the value has been disregarded from the Financial Assessment for an initial 12-week period.
- Where they have a Deferred Payment Agreement in place with the Council from week 13. They can apply for the top up to be included in the deferred payment, providing there is sufficient equity within the property value to cover the following;
 - The deferred payment loan for the difference between the current financial assessment and the cost of the care home for three years,
 - The top up payment for three years,
 - The upper capital pre-set limit of £23,250 (detailed on the Council website [here](#))
 - Estimated 10% selling costs
- Using savings below the lower capital pre-set limit of £14,250 that has been disregarded from the Financial Assessment
- Using any other income that has been disregarded from the Financial Assessment.
- When they are receiving residential accommodation funded under the Mental Health Act, Section 117 Aftercare Services.

4.2 The Service User may **not** pay the top-up payment themselves from;

- Their statutory weekly personal allowance.
- Any savings between the upper (£23,250) and lower (£14,250) capital pre-set limits.

5 Individual Choice and Additional Payments

5.1 The Service User has the right to choose the care provider that they wish to deliver their care, subject to certain conditions: (Adult Social Care - [Choice Framework](#))

- The care home is suitable in relation to the person's assessed needs;
- To do so would not cost the Council more than it would usually expect to pay for that type of care, unless arrangements are in place for a top up agreement ([see section 3](#));
- The care is available; and
- The provider of the care is willing to enter into a contract with the Council to provide the care on the Council's terms and conditions.

- 5.2 The Council must show there is at least one suitable care home available at the amount it would usually expect to pay to meet your needs (without a top-up fee).
- 5.3 If no preference has been expressed, and no suitable care is available at the amount the Council would usually expect to pay, in exceptional circumstances, the Council may arrange care at a more expensive rate, to ensure that needs are met.
- 5.4 This would be treated as a temporary care arrangement, until the Council is able to secure a care home placement at the Council's agreed rates.
- 5.5 Such temporary arrangements would be made at the best affordable price, closest to the Council's current agreed rate. In such circumstances, the Council cannot ask for the payment of a 'top-up' fee, and the person would then contribute towards the amount according to the financial assessment. This would be subject to a Care Act Review and the MCA best interest process if the person lacks capacity.
- 5.6 A person may choose a care home setting that is located outside of the Bolton Council area. In these circumstances, Bolton Council will pay the amount to meet their needs at the local Council rate, of the area they will be moving to. A person may actively choose a setting that is more expensive than the amount identified for the provision of the care.
- 5.7 Where the person has chosen a care home that is more expensive than the Council would usually expect to pay, an arrangement will need to be made as to how the difference will be met. This is known as an additional cost or 'top-up' and is the difference between the amount the Council would usually expect to pay and the actual cost.
- 5.8 Where more expensive care has been arranged the Council will need to ensure that a Third Party is able and willing to meet the additional costs, and that they can maintain these additional costs for the required duration of the stay. [See section 3 of this Policy](#) for further information on this.

First and Third Party Responsibilities

- 5.9 The Service User is known as the First Party, and they are only able to meet the additional cost in certain circumstances as detailed in [section 4](#) of this Policy.
- 5.10 Where the Service User is asked to contribute towards the cost of their care following a financial assessment calculation, they must not be asked to pay more than their assessed contribution shows they can afford. At no point can the Third Party use the cared for person's assets or income to fund top up payments.
- 5.11 Where a person has chosen a care home that is more expensive, the Council will take steps to ensure that the person understands the full implications of this choice. This will be by providing sufficient information to ensure that they understand the full terms

and conditions, including considering independent financial information and advice. If additional costs cannot be met for the full duration of the stay, the Service User may be required to move to an alternative room within their chosen care home or alternative care home.

5.12 The Council must ensure that the person paying the top-up is willing and able to meet the additional cost for the duration of the stay, recognising that this may be for some time into the future. Therefore, it must ensure that the person paying the top up enters into a written Agreement with the Council agreeing to meet that cost. The Agreement will include the following: (please refer to [section 3](#) for more information)

- The additional amount to be paid;
- The amount specified for the accommodation/care;
- The frequency of the payments;
- Where the payments are to be made; This will correspond to how the person pays their own contribution, i.e. either to the Council or direct to the provider.
- 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 that a provider may make;
- A statement on the effect of any changes in the financial circumstances of the person paying the top-up.

5.13 The top-up should be the difference between the actual costs of the chosen provider and the amount that the Council would usually expect to pay to meet the person's eligible needs.

6 What is a Top Up Agreement?

6.1 The top up Agreement is a contract between the Council and the Third or First Party. The Third or First Party agrees to pay the difference between the cost of the home and the amount the Council would usually expect to pay for the residential accommodation.

6.2 The Council must have a signed agreement with the Third or First Party before the top up can be agreed. The Council must provide the person paying the 'top-up' with sufficient information and advice to ensure that they understand their options and choices, including considering the provision of independent financial information and advice.

- 6.3 The Third or First Party must agree to the conditions set out in the agreement before the Council can confirm the placement. The agreement makes it clear who is responsible for making the payments to the home. This provides a safeguard for the Service User and provides the Council with reassurance that the Third or First Party has sufficient means to sustain the top up both now and in the future.
- 6.4 If a Third or First Party top-up is agreed, it may be possible for the fees to be paid directly to the care home, but the Council remains legally responsible for the full costs.

7 The Top Up Agreement Amount

- 7.1 The Council cannot confirm any Top-up Agreement until the following has been completed:
- It has been confirmed that the person is not self-funding subject to the full financial assessment taking place.
 - An assessment of the Third Party's financial circumstances to check that they are willing and able to maintain the top up for at least three years.
 - Where a First Party top up is required to be added to a Deferred Payment Agreement, a financial assessment based on available equity in the property value to check the ability to pay the top up for at least three years.
 - A Top-up Agreement is signed by the Third or First Party, The Council and the Care Provider.
- 7.2 Where the Council is not able to agree to the requested top up payment, the provider should be approached to see if they are able to agree a reduction of the top up to an affordable level.
- 7.3 If it is not possible to reach an agreement the Council may not agree to arrange the care in the preferred accommodation. The Council will advise why it has not been able to meet the choice and will attempt to offer alternative accommodation.

8 What is the responsibility of the Care Home Provider?

- 8.1 With regards to self-funding residents, it is the responsibility of the care home provider to ensure that residents and family members can afford the weekly fee. It is recommended the care home provider undertake comprehensive checks to ensure this can be maintained for 3 years.
- 8.2 Providers must inform the Council of their fee levels within 6 weeks of the Council informing them of the rates that will be paid by the Council for the financial year

ahead. The Council will indicate on its website the care homes where top ups may be required.

- 8.3 Providers may be requested to complete an open book accounting pro-forma giving a full breakdown of how the cost of placement has been calculated prior to any new top up or increase in top up being agreed, including where the Council is paying the top up.

9 What happens if the care home increases their fees?

- 9.1 If a care home decides to increase its fees, it must first contact the Council to revise its contract which includes any Third Party Top Up agreements agreed by the Council.
- 9.2 Any increase in fees may result in the need to review the Third Party Top Up.
- 9.3 Once a Third Party Top Up amount is agreed it may only increase by way of agreement between the Council, the Third Party, and the Provider.
- 9.4 In the event that the care home increases its charge, it is important to note that the additional amount may not be shared equally between the Council, the care home, and the person paying the top up fees. As a result, the amount of the top up payment may increase. This will need to be considered when contemplating the affordability and sustainability of the top-up arrangement.
- 9.5 A new Third party Top Up form will need completing and signing following an increase, at the statutory annual review. In addition, affordability checks will take place to ensure the payee is able to sustain payment of the new amount.
- 9.6 If a top up amount is increased, and an agreement cannot be reached between all three parties (the Third or First party payee, the Council, and the care home), the Third or First party will be asked if they are willing and prepared to pay the increase.

If not, the Council will carry out a Care Act Assessment of the resident to inform whether it would be appropriate for them to move to an alternative care home at a lower rate, or an alternative room within their care home, if available.

This will include consideration of whether such a move would be detrimental to the Service User's health or well-being. In such cases, the Council will consider the use of its discretion on the specific facts of the individual resident concerned. A best interest decision in relation to any move would be needed if the service user is deemed to lack capacity.

10 What happens if the Third Party stops paying the Top Up?

- 10.1 It is important that the Third or First Party contact the Council as soon as possible if they are having difficulty maintaining the arrangement.

If payments cannot be maintained, the Council will carry out a Care Act Assessment of the resident to inform whether it would be appropriate for them to move to an alternative care home at a lower rate, or an alternative room within their care home, if available.

This will include consideration of whether such a move would be detrimental to the Service User's health or well-being. In such cases, the Council will consider the use of its discretion on the specific facts of the individual resident concerned. A best interest decision in relation to any move would be needed if the service user is deemed to lack capacity.

- 10.2 The Council will try to negotiate on behalf of the resident to see if the provider will accept an amount closer to what the Council would usually expect to pay to meet care needs prior to any move taking place.
- 10.3 Until that assessment is undertaken it is the responsibility of the Third or First Party to continue to meet the payments.
- 10.4 When a Third or First Party fails to pay their top-up payment, the Council will pursue enforcement options to collect the amount owing, this will be in line with our Debt Collection policy.
- 10.5 The Council will be sensitive to changes in a payee's circumstances which create difficulty in continuing to make the agreed payments. The Council will demonstrate flexibility in its response to such changes in circumstances.

11 National Fraud Initiative

Bolton Council is under a legal duty to protect the public funds it administers. Therefore, to prevent and detect fraud, it may be required to use the Service User personal information we hold, or share key personal identifiers, with other organisations responsible for auditing and administering public funds.

Glossary

To help you read this policy, an explanation of the special words and phrases that you will find used is set out below:

Key word	What does it mean?
Care Act Needs Assessment	Will identify care needs and outcomes required to achieve an individual's wellbeing in their day to day life. This will consider the person's eligibility for care and support services. Care Act 2014 (legislation.gov.uk)
Care and Support	A mixture of practical, financial, emotional, and social care support for adults who need extra help to manage their lives and be independent. This may include assessments of needs, provision of services and the allocation of funds to enable a person to purchase their own care and support.
Client Contribution	This is the amount a person is asked to pay from income they receive such as state pension.
Council Rate	The rate that the Local Authority would ordinarily pay. This is reviewed on annual basis.
Deferred Payments Scheme	A Scheme that the Council will offer to individuals to defer the payment of care home fees pending the sale of their property.
Disregard	Elements of income, capital and/or of property assets ignored from the Financial Assessment calculations.
First party top up	Where the cared for person has agreed to pay their own top up to enable them to receive care services which cost more than the Council would usually expect to pay.
Financial Assessment	This looks at and considers the individual's financial circumstances of income, capital, assets, and expenditure to work out the ability to afford to contribute towards the package of care and support services.
Personal Budget	This is the value of the cost to the Council of the package of care to meet an individual's care needs. It also includes the amount of the Service User financially assessed contribution. (Care and support statutory guidance - GOV.UK (www.gov.uk))
Provider	The organisation which is providing the care and support

Self Funding (also known as Full Cost payer)	Those individuals who have sufficient income and assets to pay for their care support services in full without financial assistance from the Council.
Service User	A widely used term for someone receiving social care services.
Third Party Top Up	A third party is someone who agrees to pay a top-up to enable a relative or friend to go into a care home at a rate which is higher than the amount the Council would usually expect to pay.