

# Choice of Accommodation Policy for Care Home Settings



**Hampshire**  
County Council

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## Choice of Accommodation Policy for Care Home Settings



<b>Adults' Health and Care Directorate Policy</b>	<b>05/24 V1</b>
<b>Choice of Accommodation Policy for Care Home Settings</b>	
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<b>Summary</b>	This policy advises of the process and underpinning ways of working that supports how Hampshire County Council purchases placements for individuals who are assessed as having eligible needs. This policy currently applies to long-term placements.
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<b>YOU SHOULD ENSURE THAT:</b>	
<ul style="list-style-type: none"> <li>▪ You read, understand and, where appropriate, act on this information</li> <li>▪ All people in your workplace who need to know see this procedure</li> <li>▪ This document is properly filed in a place to which all staff members in your workplace have access</li> </ul>	

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## Choice of Accommodation Policy for Care Home Settings

### 1. Purpose

The purpose of this policy is to ensure that all individuals who have been assessed by Hampshire County Council as requiring a long-term placement are offered an appropriate placement. This policy aims to ensure that all placements offered are of best value to Hampshire County Council. It supports the principle of the right service at the right time.

This policy is effective through the Adults' Health and Care directorate's framework model, which enables the Directorate to work with a group of Providers who we can build positive and consistent relationships with. The policy also ensures a standardised, fair, supportive and transparent offer to the individual, their representatives and the market.

### 2. Scope

This policy applies when Hampshire County Council intends to meet an older adult's eligible care needs through long-term care in a care home. This policy can also be applied when younger adults (under 65) require accommodation in any permanent care home setting, including where needs can be met in older adults' settings, and arrangements are being made by the Adults' Health and Care Brokerage Team. This may include people who are experiencing frailty, conditions such as early onset dementia, or people who have a specific requirement for nursing care.

The person may:

- be moving into long-term care for the first time
- be moving from one care home to another
- be eligible for County Council financial support because they were previously self-funding and have/will soon have reached the threshold to receive local authority funding support
- have been funded previously by another organisation, such as an NHS body under Continuing Health Care or Discharge to Assess funding and have now become the funding responsibility of the County Council
- be moving to a long-term placement but funding may be on an interim basis, or the funding source may change over time. However, the placement remains the long-term place of residence for the individual.

When the County Council is arranging this type of care and certain conditions are met, the Care Act 2014 gives people the right to choose their preferred care provider or location. [Read the Care and Support and After-care \(Choice of Accommodation\) Regulations 2014.](#)

This policy sets out the conditions which apply to the choice of long-term accommodation arranged by the County Council. The County Council Adults' Health and Care community and hospital teams, the County Council Care staff, Brokerage and Billing, Contracts and Commissioning Teams must all follow this policy.

This policy will be subject to regular review, alongside any review required following planned governmental or legislative changes.

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### **3. Legal context and references**

This policy is based on appropriate legislation and government guidance, including:

- The Care Act 2014, associated regulations and statutory guidance
- The Mental Capacity Act 2005
- Equality Act 2010
- Human Rights Act 1998

The County Council has written this policy to be read and understood alongside:

- Paying for Care Policy
- Capital Depletion Policy
- Paying for care in a care home

### **4. Stakeholder Consultation**

External consultation has been carried out with relevant partners including Care Home Providers, Hampshire Care Association, carers and carer groups, the Care Quality Commission and the Hampshire and Isle of Wight Integrated Care Board.

### **5. Introduction, Background and Exceptions**

The County Council has a duty under the Care Act (2014) to meet the eligible care needs of its residents, therefore, a range of services are required to be purchased including residential and nursing care. Hampshire County Council's Adults' Health and Care strategy continues to support individuals to be as independent as possible in their own home, however there will be situations in which a long-term placement in a care home is the most appropriate service to meet eligible need. As a public body, the County Council is required to manage its finances appropriately and proportionately to ensure that it offers best value for money services whilst also meeting the needs of its residents.

This policy ensures a standardised and transparent offer which enables the County Council to secure consistent and reliable services for individuals with assessed eligible care and support needs. The policy also ensures consistent costs for both the provider and the County Council to enable safe and appropriate provision of services, whilst supporting a sustainable market.

The County Council is obligated to ensure that any care home placement is identified as the right service for the individual's assessed needs. Individuals within care home placements should be supported to live meaningful lives, through person-centred services which ensure positive outcomes.

### **6. Implementation plan and training needs analysis**

A full and comprehensive business readiness programme will underpin the implementation of this policy across all areas of Adults' Health and Care. All practitioners will be required to engage in this training. Monitoring of adherence to, and governance of this policy will be in place post implementation date through contract management and key performance indicators (KPIs) put in place for providers and KPIs set for internal teams to achieve. These will be shared and monitored through regular review points including relevant boards and a continuous improvement programme model.

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A robust internal communication strategy and plan is in progress through face-to-face meetings with internal partners, shared written communications, utilisation of the Adults' Health and Care staff bulletin Team Brief, Managers briefings, County Managers meetings, Senior Managers Meetings, Practice Improvement Network and the Directorate's online internal practitioner guidance - Social Care Practice Manual. Additionally, a communications strategy for external partners will also be implemented.

### 7. Supporting long-term eligible care needs

The County Council's aim is to help people to maintain their independence, living in their own home without the intervention of paid-for care and support, for as long as possible.

However, the overriding priority always is for the County Council to fulfil its statutory duty under the Care Act 2014 and S117 of the Mental Health Act to ensure that assessed eligible needs, including S117 after-care needs, are met. It is recognised that for some people, a long-term placement in a care home will be the most appropriate way of meeting their eligible care needs.

When a local authority is arranging a long-term care placement, an individual has the right to choose their preferred care home, subject to certain conditions. For the County Council to make arrangements with the person's preferred care provider, the preferred accommodation must be:

- a) the same type of accommodation as agreed in their support plan
- b) suitable to meet their assessed eligible needs
- c) available
- d) at a cost that does not exceed the person's agreed **personal budget** \* unless the County Council has agreed to a **top-up** \*
- e) offered by a care provider who agrees to the County Council's terms and conditions for provision of care and support

\* The terms **personal budget** and **top-up** are explained below.

### 8. Personal budgets

Under the [Care Act 2014](#), an individual's **personal budget** is the money that is required to meet their assessed eligible needs identified in their needs assessment and recorded in their support plan. The personal budget sets out:

- the total cost of meeting the individual's assessed eligible needs
- the amount that the individual needs to contribute, on the basis of their financial assessment
- the amount that Hampshire County Council will contribute towards the cost (including services/support in kind)

An individual's personal budget must be sufficient to meet their eligible needs, as set out in their needs assessment, in a County Council Care home or an independent

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sector home with which the County Council can contract at the time when it is required.

**The County Council's position is that it will offer the most cost-effective option which delivers the outcomes desired.**

### 9. Top-ups

If an individual wants to choose a home that is more expensive than the care homes the County Council has offered, they can still move there providing someone agrees to pay the difference between what the County Council will pay and the preferred care home fee. This is known as a 'top-up payment'.

There are government rules about who can pay a top-up and in most circumstances an individual is not allowed to pay it themselves if they are the person receiving care. A top-up payment is usually made by a friend or relative of the person who receives the care. The person making the top-up payment is often called the 'third party' as they are not the Council and are not the person receiving the care. The third party must make the top-up payment from their own money. More information about top-ups can be found on our [top-up payments for care homes site](#).

There is no legal requirement for family members, friends or anybody else to agree to pay a third-party top-up payment and the County Council will always offer a care home place that does not require a top-up to be paid. The decision to make a top-up payment is voluntary and is only required if the choice of care home is more expensive than the care home the County Council has offered. Anyone considering paying a top-up payment will need to be sure they are able to afford it on a long-term basis, as an individual may need to move to a less expensive room or alternative care home if the person paying the top-up is no longer able to pay it. Budgeting tools can help people to decide whether they can afford to pay a top-up payment for someone else. For example, there is a budgeting tool on the [Citizens Advice website](#) (search 'work out your budget').

### 10. How Hampshire County Council will source long-term care to meet eligible needs

If it has been identified in an individual's needs assessment that they will be best supported in a long-term care home placement, their case worker will refer them to the Brokerage Team. This Team is responsible for sourcing care placements. The [Brokerage Team](#) will always offer options that meet the individual's needs, and which are personalised to the individual's reasonable requirements, using the pen picture supplied. (A pen picture is the information supplied by the County Council practitioner to the Brokerage Team in relation to the individual for whom care is being sourced.)

To make best use of care beds available to the County Council, the Brokerage Team will offer an individual options in the order as laid out below, rather than all options at the same time.



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Please note that options for younger adults seeking older adult care settings may be limited due to the provider's Care Quality Commission (CQC) registration.

### First offer (Tier 1)

In the first instance, the Brokerage Team will contact the County Council Care Homes (Hampshire County Council's Care and Support Services) to request that they consider whether they can offer a placement in any of its locations that will meet the individual's needs. This judgement needs to be made by Hampshire County Council's Care and Support Services as the care provider, not by the Brokerage Team, initially based on the information given by the practitioner in the pen picture. In some instances, Hampshire County Council's Care and Support Services will not be able to offer a suitable placement, either because of the type of needs an individual has or because no beds are available in a suitable location. If there is availability in one or more of the County Council's care homes, the Brokerage team will offer that placement most suitable to meet the individual care needs and individual's preferences. This option will form the **Tier 1 offer** to the individual. If this offer is accepted, the Brokerage Team will arrange for the individual to move into the care home.

### Second offer (Tier 2)

If no option can be offered by Hampshire County Council's Care and Support Services, or if the individual is not in agreement with or unsure about the offer of a place in a County Council Care home, the Brokerage Team will work with the individual or their family/representative to source a maximum of up to two cost-effective independent sector care homes. These homes will be able to meet the individual's needs within their personal budget, and will accept the County Council's price framework, and terms and conditions for provision of care and support. This is known as our **Tier 2 offer** to the individual.

A Tier 1 placement cannot be guaranteed to be held open pending a Tier 2 option, but we will seek to support informed decision making and the best offer for the individual.

### Alternative choices

If the individual does not wish to accept either a Tier 1 or Tier 2 care home offered by the Brokerage Team, they can request care in an alternative care home. If the placement in the individual's preferred alternative care home meets the conditions set out above in Section 2, the Brokerage Team can arrange for the individual to move into this accommodation.

If a top-up is required to supplement the individual's personal budget, because the preferred care home is more expensive than the amount in the personal budget, this will also be arranged via the Brokerage Team.

If a top-up is required, then the amount of the top-up will be the differential between the highest independent framework homes offer and the cost of the chosen placement.

Please note that if the individual requests accommodation in another local authority area, for example to be closer to their family, the Care Act 2014 requires that the local authority considers the cost of care in that area, and the individual's personal



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budget may need to be adjusted to take account of the market conditions in that area.

### 11. What constitutes a reasonable choice of accommodation offer?

If an individual does not wish to take up any of the offers made to them by the Brokerage Team, they have not put forward an alternative themselves that is within their personal budget, and there is nobody willing to pay a top-up to assist with accessing a more expensive placement, the Brokerage Team will inform the relevant Senior Managers who will need to assess whether they believe a reasonable choice of accommodation has been offered.

'Reasonableness' needs to be determined by the facts relating to each individual, however, to assist the Senior Managers as decision makers, in determining whether a reasonable accommodation choice has been offered, the factors that should be considered include those set out below:

- Tier 1 (where available) and Tier 2 choices of appropriate accommodation will have been offered to the individual that can meet their assessed eligible social care needs within their agreed local authority personal budget and without a top-up payment. This will have been confirmed by the social care practitioner who made the Brokerage referral, the officer who made the Choice of Accommodation referral and the placement provider. The personal budget set must be sufficient to meet individual needs (not just an indicative figure).
- Offers made should take account of eligible needs that have been identified, such as specific ethnic or cultural requirements or preferences, or the need to be in a particular location. An individual's human rights should always be considered, for example the right to a family life.
- Individuals and their representatives can identify a preference for a general geographical area for long-term placements. This will need to be a general area, as a specific postcode or area may be too small an area to be considered due to the market availability in that area: the Council will look to source a reasonable placement that is suited to an individual's needs in the general area of preference. This does not necessarily mean that it will be the closest geographical location to a relative's own home address or the individual's original home address.
- An offered placement must be in a location that those who visit regularly are able to access – by a mode of transport that is practical and affordable. This may mean that visiting can be facilitated by public transport, that the placement is on a transport route that can be accessed by relatives/visitors, voluntary sector transport access must be considered and use of a relative's own finances to pay for taxis or access to family support for visiting must all be considered.
- A 'standard' circumference of search is not cited in this policy as an individual may wish to move to a placement in a different part of the county to where their usual place of residence is; or family members or important contacts may have moved to or be in a different part of the County.
- A particular care home, just because it is the home of preference for the individual or a family member, may not be a home that the County Council will

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agree to fund if it is either unable to meet need or support the individual safely or is above the assessed personal budget and there is no top-up available.

- All individuals or their legal representatives can find/source their own long-term placement, provided that it is within the personal budget agreed by the Council or where a third party has agreed and is able to pay a third-party top-up.
- Read more on the [Care and Support Statutory Guidance](#).

### 12. Agreeing exceptions to the Policy

Any exceptions would need to be agreed at District Service Manager, Hospital Service Manager level or above.

Any exceptions would need a specific and robust risk assessment and may include situations such as a spouse already being in a long-term placement in a specific home and their partner wishing to be placed with them and it would be in the interests of their wellbeing to be placed in the same home.

If a Service Manager agrees to authorise a high-cost placement, this will be undertaken in line with the Scheme of Delegation for financial decision making.

It should be noted that most younger adult placements will remain out of scope of this policy due to the complexity of the placement process.

### 13. Timeframes for choosing a care home

Delays in organising the appropriate care can be detrimental to the individual and/or their current carer if the individual is being cared for in a setting that is no longer suitable for their needs. However, it is recognised that choosing a long-term care home or supporting a loved one with this choice can be difficult and often this is a stressful time for the individual and their family. It is understandable that individuals and/or their family/representative may wish to visit care homes that have been offered by the Brokerage Team, and reasonable time will be allowed for this to take place. The optimum would be for a decision to be taken within 72 hours of an offer being made, but it is recognised that this may not always be possible. The Brokerage Team will alert the relevant Manager if concerns arise about the length of time being taken for a placement decision to be reached.

Although people may be concerned at being encouraged to make a decision within 72 hours, it is important that social care practitioners have prepared for this by discussing the process with the individual and/or their family, sharing information relating to the Choice of Accommodation Policy, and making sure that people have thought about what support they may need to make this decision. This would usually take place as part of the individual's Care Act Assessment.

If an individual or their family/representative declines the reasonable offers (Tier 1 and 2) given by the County Council in the five days post initial referral, then the individual or their family/representative will be afforded a seven-day period to source an alternative placement. The family/representative will be required to immediately share the provider information with the County Council Brokerage Team to ensure all

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appropriate checks are completed. If the alternative placement is deemed suitable to meet eligible needs and meets the financial agreement of the Council, then it will be expected that the individual will move within a further seven days of the alternative placement being identified.

If a suitable long-term placement is taking longer to source than set out above, the County Council may offer support to access temporary short-stay accommodation that meets the individual's needs until a permanent solution is agreed, subject to risk assessment and availability of a short-stay solution, although it is recognised that individuals cannot be forced to move.

### **14. Individuals already in a care home and newly eligible for the County Council funding**

In cases where an individual is already living in a care home, and they are seeking financial support from the County Council for the first time, they should be referred for an assessment of their needs and for a financial assessment in the first instance. This will include self-funders whose capital has depleted, and other individuals who were previously funded by the NHS.

Once their eligible needs and personal budget have been clarified, if their current care home is able to continue meeting their eligible needs, the individual wishes to remain there and the provider is a County Council Framework Provider who is able to meet needs within their contract, the County Council will take on responsibility for paying for the placement at the framework agreed rate. This will be from the agreed date and the County Council will collect any client contribution that is required, based on the individual's financial assessment.

If the provider is not a Framework Provider, and the individual wishes to remain there and the provider is willing to accept the personal budget and the home meets the quality requirements of the County Council, then the County Council will take on responsibility for paying for the placement at the framework agreed rate. The County Council will collect any client contribution that is required, based on the individual's financial assessment.

#### **Cases where the care home will not accept the amount in the personal budget.**

If the care home will not accept the amount that the County Council would expect to pay based on the individual's personal budget, but it is considered on the basis of robust needs and risk assessments, signed off by a Senior Service manager, that it would be too risky to move the individual to an alternative placement, the County Council will need to take on responsibility for the full cost even if this means it becomes a 'high cost placement'.

In relation to the potential for a **top-up payment**:

- Where it has been agreed, following needs and risk assessment, that the County Council does not consider it safe to move the individual, and will therefore not be offering an alternative available placement against which a top-up could be calculated, then a top-up at the existing care home cannot be

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taken forward. The Brokerage Team will negotiate the best price possible with the provider to enable the individual to continue living in the current placement.

- If the needs and risk assessments identify that it would be possible to move the individual to a less expensive alternative placement, the Brokerage Team will explore Tier 1/Tier 2 options with the individual and their family in the usual way and will make appropriate offers that meet the individual's needs. In this situation, **a top-up can be explored**, if the individual wishes to stay in their current home, and there is someone willing to pay a third-party top-up.
- Read more about [top-up payments for care homes](#).

### 15. Equality Impact Assessment

This policy impacts on Hampshire residents.

The purpose of the policy is to clarify and improve the process of identifying appropriate placements for individuals who need support from Adults' Health and Care for Residential and Nursing Care. It is anticipated that the impacts of this policy would be positive for Hampshire residents.

This policy supports individuals to make decisions in an evidenced and supported way about options for their residential and nursing care. This is relevant to whether the individual is making choices and is self-funding or is funded by the County Council. Individuals may have to make choices about where they live initially that they might otherwise not have chosen and to have regard to future funding. However, there are positive impacts, for example, people have a choice of providers that are managed under a framework that is contract managed and provides appropriate care and support that is able to meet.

This is consistent with how our policies operate for people requiring funding from a Local Authority.

Clear and accessible communication materials for the public will be produced to explain the process in an open and transparent way.