



Social care and support

'Top up' payments towards the cost of residential care

Date: April 2021

The Local Authority care and support planning process should always identify how best to meet a person's needs. As part of that, a council must provide the person with a personal budget. The personal budget is the cost to the council of meeting the person's needs which the council chooses or is required to meet. A council must ensure that at least one choice is available that is affordable within a person's personal budget and should ensure there is more than one choice.

If no suitable accommodation is available at the amount identified in the personal budget, the council must arrange care in a more expensive setting and adjust the budget to ensure it meets the person's needs. In such circumstances, the council must not ask anyone to pay a "top-up" fee. A top-up fee is the difference between the personal budget and the cost of a home.

However, if a person chooses to go into a home that costs more than the personal budget, and the council can show that it can meet the person's needs in a less expensive home within the personal budget, it can still arrange a place at the home if:

- the resident can find someone else (a "third party") to pay the top-up; or
- the resident is willing to pay the top-up fee himself and enters into a deferred payment scheme with the council.

In such circumstances, the council needs to ensure that the person paying the top-up has a written agreement with the council and can meet the extra costs for the likely duration of the agreement.

The Guidance sets out a council's duties in relation to top-up agreements:

'The local authority must ensure that the person paying the "top-up" is willing and able to meet the additional cost for the likely duration of the arrangement, recognising that this may be for some time into the future...The agreement must, as a minimum, include the following:

- *The additional amount to be paid;*
- *The amount specified in the person's personal budget;*
- *The frequency of the payments;*
- *To whom the payments are to be made;*
- *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".'*

When entering into a contract to provide care in a setting that is more expensive than the amount identified in the personal budget, the local authority is responsible for the total cost of that placement. This means that if there is a break down in the arrangement of a top-up, then the local authority would be liable for the fees until it has either recovered the additional costs it incurs or made alternative arrangements to meet the care needs of the person.

We can help

If you have any questions about social care, please contact us using Tel: 0333 1212 300 or Email: info@downs-syndrome.org.uk. If our information officers are unable to help, they will refer you to our social care adviser.

Contact us

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