

Choice and Top up Policy

22/01/2018

Adults Social Care

Current Document Status			
Version	0.3	Approving body	Cabinet
Date	25 January 2018	Date of formal approval (if applicable)	
Responsible officer	David Coleman	Review date	18/12/2018
Location			

Version History			
Date	Version	Author/Editor	Comments
18/12/2018	0.1	David Coleman	First draft for consultation.
15/01/2018	0.2	David Coleman	Initial review & formatting

Comprehensive Impact Assessment Record					
Date	Type of assessment conducted	Stage/level completed (where applicable)	Summary of actions taken decisions made	Completed by	Impact Assessment review date
to follow					

Document retention	
Document retention period	

Choice & Top Up

Policy	Contents	Page
1.	Policy Statement	4
2.	Introduction	4
3.	Purpose	5
4.	Scope	5
5.	Legal Framework	5
6.	Choice for Care Services in Cornwall	6
7.	Residential Placements Outside of Cornwall	9
8.	Refusing a Service	10
9.	Charging for Care Services	11
10.	Appeals Process	11
11.	Other Related Policies	12
12.	Policy Definitions	12
13.	Glossary	

Policy Statement

This policy outlines Cornwall Council (CC) Adult Social Care's approach to giving individuals choice over the services they receive, and also sets out their financial responsibilities that result from those choices. It aims to provide clear, defined options for individuals whilst ensuring that CC purchase and offer care services in the most cost effective manner.

Introduction

The Care Act 2014 highlights the responsibilities for Local Authorities to promote an individual's choice and control when receiving social care services. This legislation also states the Local Authority's responsibility to provide affordable service options that do not require the payment of a top up fee. In some cases, a person may proactively choose a setting that is more expensive than the amount of the placement identified when finding them an appropriate care and support provider. Where they have chosen a setting or provider that costs more than this, 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' payment and is the difference between the cost of the placement identified by the council and the actual cost of the preferred setting. In such cases, the local authority must arrange for them to be placed there, provided a third party or in certain circumstances the person in need of care and support, is willing and able to meet the additional cost.

All individuals that have been assessed as having eligible care needs will be able to receive social care services and shall be entitled to a local authority offer that meets these needs safely and to a standard that satisfies the Local Authority's values.

Current care services are usually offered from within the Councils boundary; however, occasionally care offerings are sourced out of County.

Although Local Authorities are required to offer an affordable care service option to individuals, if the personal preferences of service users is for more expensive care options, additional service user top up fees may be charged by a Local Authority.

3 Purpose

3.1 To explain the choices available to individuals receiving services from Cornwall Council and offer clarity on the definition of service user choice.

3.2 To explain who is responsible for additional financing of a placement resulting from the care choices made by the service user.

3.3 To explain the geographical area that the Local Authority may purchase in for residential care placements

4. Scope

This policy applies to adults that have been assessed by Cornwall Council (CC) and have been deemed eligible under the Care Act 2014 to receive services.

For those in receipt of short breaks, this policy will also apply to carers of adults where one or a range of services are delivered to the cared for person for the benefit of the carer to have a break from their caring role.

For the purposes of this document a 'carer' means an adult aged 18 years and over who provides or intends to provide help to another adult. An adult who provides care under a contract or as voluntary work will not be regarded as a carer.

Young carers (aged between 16 and 18 years of age) that support people over the age of 18 with the above criteria are supported via CC Children's Services.

5. Legal Framework

5.1 The Care Act 2014

The Care Act, together with Care and Support (Choice of Accommodation) Regulations 2014 and statutory guidance, provides a legal framework for adult social care and support, as well as introducing new rights, responsibilities and processes.

5.2 Promoting Wellbeing

The general duty of CC Adult Social Care is to promote an individual's wellbeing when performing its care and support functions. This is known as the 'wellbeing principle', which underpins all care and support functions and decisions made in relation to an individual under the Care Act. The concept of wellbeing is defined in section 1(2) of the Care Act as relating to any of the following nine principles:

- Personal dignity (including treatment of the individual with respect);
- Physical and mental health and emotional wellbeing;
- Protection from abuse and neglect;
- Control by the individual over day-to-day life including over care and support, or support, provided to the individual and the way in which it is provided;

- Participation in work, education, training or recreation;
- Social and economic wellbeing;
- Domestic, family and personal relationships;
- Suitability of living accommodation;
- The individual's contribution to society

6. Choice for Care Services in Cornwall

Cornwall Council utilises a range of methods in order to give individuals choice over the care that they receive. Choice of care services are largely defined by the type of care offering being provided and the methods of purchasing used by CC to achieve the most cost effective services.

6.1 Choice for Residential Care Services

When the council undertake care and support planning with an individual, the individual will be at the centre of support planning and their expectations managed effectively. This may include stating a preference for being placed in a particular location or being supported by a particular provider.

Where a local authority is responsible for meeting a person's care and support needs and their needs have been assessed as requiring a particular type of accommodation, in order to ensure that they are met, the person must have the right to choose between different providers of that type of accommodation provided that:

- The accommodation is suitable in relation to the person's assessed needs (including the individual's emotional and psychological wellbeing);
- The accommodation is available
- The provider of the accommodation is willing to enter into a contract with the local authority to provide the care at on local authority's terms and conditions.

The process for arranging residential care is the responsibility of the care solutions hub at Cornwall Council. This team source residential placements that can best meet the individuals' assessed needs and will negotiate with care homes to achieve the best price for this placement.

Whilst Cornwall Council will make efforts to consider the individual's and their family's/carer's wishes, the suitability and availability and cost of residential placement beds will influence the establishments offered. Suitable placements that meet the individual's assessed needs may be

offered within a reasonable travel time from the individual's home (up to one hour travel time wherever possible, subject to availability).

If an individual or their carer/family members etc. chooses not to accept the option that has been negotiated by the care solutions hub on their behalf they will be made aware that any subsequent placements sourced will incur a top-up fee if that home is more expensive than the choice offered. This top-up fee can usually be paid by a third-party such as a spouse, family member or carer. However, in some circumstances may be paid by the individual themselves.

The Council must agree to any top-up payment and the person paying the top-up will be required to enter into a written agreement with the Council agreeing to meet that cost during the duration of the agreement. A review of these top up costs will be instigated should the cost of services either increase or decrease.

The 'top-up' fee is the difference between the chosen care and the cost of the 'top-up' free option which must be available.

For example:

- Care Home 1 has a weekly cost of £450 (This home is refused by the individual)
- Care Home 2 has a weekly cost of £500 (This is the chosen/preferred care home)
- Care Home 2 cost (£500) – Care Home 1 cost (£450) = Top Up Fee (£50)

Should a third party/carer/family be unable to continue paying a top-up fee the Council will need to be provided with 8 weeks' notice. If this is the case, the individual may be required to move to another category of room or another care home unless the care home is able to accommodate them within their financial circumstances.

The deferred payment scheme allows a person who owns a property to defer the costs of their residential care against the value of their property. If an individual enters a deferred payment agreement, the top up contribution can also be added to the deferred payment debt if the council agrees there is enough equity in the client's home. Details of the deferred payment scheme are detailed in the Deferred Payment Policy.

For people (known as self-funders) that are not eligible to receive funding assistance towards care packages, Cornwall Council can still give assistance

to find a suitable residential placement. Self-funded placements will not be subject to top-up fees as the individual will be responsible for paying the full placement fee. If/when a self-funder becomes eligible to receive services due to their funds having depleted to the funding threshold or due to an increase in their care needs, they will be reassessed and placement costs will be calculated subject to this assessment. This could result in a change of provision/placement.

6.2 Choice for Community-based Services

If an individual is assessed as having eligible care needs and requires a community service such as home care or day opportunities, Cornwall Council will follow the process described below:

- The individual will be offered the option of either receiving a service directly from Cornwall Council or receiving a direct payment – this is when the individual is paid an amount that they can use to purchase services of their own choice to meet their assessed needs subject to eligibility criteria.
- The direct payment amount will be determined as per the direct payments process (detailed in the direct payments policy). A top up fee will be required if the individual chooses to purchase a service that exceeds the value of their direct payment. The top up fee will be calculated by subtracting the direct payment amount from the cost of the service chosen.
- If the individual decides to take the option of services supplied directly by Cornwall Council, these will be supplied by Cornwall Council's contracted providers
- For home care services, the provider will be determined by the geographical location of the individual
- Supportive Living will be based on the availability of the commissioned services
- All day opportunities centres are spread across the County. Individuals will be allocated offers at day opportunities centres based on how close they live to day opportunities centres.

6.3 Choice for Short Break Services

If a cared for person or their carer is assessed as having eligible needs and requires short break services, Cornwall Council will follow the process described within the charging policy.

The cared for person or their carer will be offered the option of either receiving a service directly from Cornwall Council or receiving a direct payment subject to suitability.

The amount of the direct payment will be equivalent to the value of the short break offer provided by Cornwall Council.

A top up fee will be required if the individual chooses to purchase a service that exceeds the value of their direct payment. The top up fee will be

calculated by subtracting the direct payment amount from the cost of the service chosen.

If the cared for person or carer, choose to receive a service, from Cornwall Council, this will be supplied by Cornwall Council's contracted providers. This placement is negotiated as the most cost-effective option available on the day of sourcing and shall not require a top-up.

7. Residential Placements Outside of Cornwall

As stated in the previous section (Choice for Care Services in Cornwall) Cornwall Council are able to provide care choices in different locations.

To ensure that Cornwall Council is able to provide a range of cost effective options to its residents, we may arrange placements out of County.

Placements outside of the boundary may be offered in the following circumstances:

- The placement is in the near vicinity of the individual's home, for example a person living near the boundary may find it more acceptable to be placed 5 miles away in another County rather than 30 miles away but in Cornwall
- The care and support required is 'specialist' and therefore opportunity to make an appropriate placement in Cornwall is extremely limited, most likely the case in Learning Disability or Physical and Sensory Disability care
- The individual has no ties to the County i.e. no relatives or family/friends network within the County and has no preference for where they are placed
- A placement within Cornwall denies family/carers access to the individual and diminishes the chance to experience family life and support. .

Each of these scenarios would be subject to discussion during the assessment process and Cornwall Council will take reasonable steps to ensure these preferences are taken in to account when sourcing placements. Cornwall Council must take steps to establish that the cared for person agrees to the receipt of this care. (Please refer to section 6.1 regarding price).

8. Refusing a Service

8.1 Refusing a Residential Placement

The Council will only negotiate placements that meet the identified needs of an individual; therefore the key to sourcing a placement is whether the care home can safely accommodate the individual whilst meeting these needs. An individual or their carer/family is entitled to refuse a placement at any

care home the Local Authority has identified or negotiated on their behalf based on their own personal preferences. However, refusal of a placement does mean that any placements found elsewhere may incur a top-up fee to be paid by a third party (normally family member) if this is more expensive than that offered by Cornwall Council.

The Council has a duty of care to the individual under the Care Act 2014 to source suitable support and will continue to work with a resident or their carer/family to source a placement even in the event of refusing a placement in a care home. Individuals or their carer/family may be asked to provide information that can help in finding an acceptable placement.

Should 3 refusals of residential placements occur;

- The Local Authority will reassert there is placement option available to the individual that has been sourced by our placement team

and then

- will make the individual and their family/carer aware that in refusing this placement the individual and their family/carer will assume the responsibility of sourcing their own placement that the council will negotiate a cost for.

- This may result in further delays to any placement being made as other individuals may take priority for the placement team dependent on their needs

8.2 Refusing a Community-based service or Short Break Service

In the event of an individual and/or their family/carer refusing a community-based service or short break service the individual and their family/carer will be given the option of receiving a direct payment in lieu of the service identified. The Local Authority has no obligation to source further alternative services but may recommend the individual and their family/carer utilise a brokerage service to assist them in sourcing a service that will fulfil their care and support requirements.

If there is any doubt as to a service user's capacity to consent or refuse an offer of services a mental capacity assessment must be completed by the relevant Social Worker/Case Co-ordinator. There should be no presumption that a person lacks capacity unless established to the contrary.

If, following assessment, the service user is established to not have capacity to make this decision a best interest decision will need to be made. Please see mental capacity assessment and best interest decision guidance.

9. Charging for Care Services

Cornwall Council will charge for care services in accordance with their current Charging Policy; Charging for Residential Services / Charging for Non-Residential Services

9.1 Financial Assessment

To ensure that residents of Cornwall are treated fairly each individual will have a financial assessment at the point where they are offered a care service provided by Cornwall Council. The financial assessment will be completed in accordance with the Council's Charging Policy. The Council will ensure that individuals will have access to appropriate benefits advice at the time of the assessment. Guidance notes about charges will be given to individuals at the same time as they enter the care assessment process so that people will not commit themselves to particular care services without knowing what they might be required to pay. Individuals and their carers will be given a record of how their charge has been calculated and informed that they have a right to be reassessed should their circumstances change.

10. Appeals Process

Individuals have the right to ask for a review of their assessment and charges. This is carried out by the Council and will consider the reasons for the council arriving at the assessed needs and charges as well as the individual's reasoning for why this is incorrect. If an individual is not happy with the outcome of their review, they are entitled to take this process further using the complaints process or the Charging Appeals process as appropriate.

11. Other CC related policies/guidance

Charging Policy

Transport Policy

Direct Payment Policy

Deferred Payment Policy

Cornwall Whole System Choice Protocol

13. Glossary Term

Adult

Definitions

An assessment under Section 9 of the Care Act 2014

Any person over the age of 18.

Assessment

An assessment is how a local authority decides whether a person needs care and support to help them live their day-to-day life

The aim is to get a full picture of the person and what needs and goals they may have. After carrying out the assessment, the local authority will then consider whether any of the needs identified are eligible for support

An assessment must be provided to all people who appear to need care and support, regardless of their finances or whether the local authority thinks their needs will be eligible

Assessed needs

These are the individual's needs that may or may not require an amount of care and support with in order to live their day-to-day life. A wide range of these needs are considered including:

- the person's needs and how they impact on their wellbeing – for instance, a need for help with getting dressed or support to get to work
- the outcomes that matter to the person – for example, whether they are lonely and want to make new friends
- the person's other circumstances - for example, whether they live alone or whether someone supports them

Care and support

A mixture of practical, financial and emotional support and services that the council offers or can support, for any person aged 18 or over in order for them to live their day to day life.

Carer

Any person over 18 who provides or intends to provide care or support to another adult who needs care. This includes emotional care and support as well as physical.

A person who is paid to provide care or does so as a voluntary worker is not considered a carer.

Carers Assessment

Under Section 10 of the Care Act 2014 This is where the Council gathers information to help determine the carer's need for care and support to help them live their day to day life and continue to provide care for the adult they are caring for. It also helps to determine whether or not they meet the eligibility criteria.

Community-based service

These are care and support services provided outside of a residential or nursing home setting. Typically, community-based services are either home care or day opportunities.

Contracted Provider / Provider

Whenever the local authority makes a placement with a care and support company (whether residential or in the community) a contract is created to ensure the provider is safe and upholds certain standards of care. These contracted providers range from home care providers with hundreds of people using their services to small residential services housing just one or two people.

Day opportunities

Day opportunities provide care and support, activities or a chance to socialise outside of your home. Day opportunities provided by the council are operated in purpose-built opportunities centres spread across the county.

Direct Payment

Under Sections 31 – 33 of the Care Act 2014

Payments made by the council directly to a person with care and support needs so they can chose where, how and when to get their own care and support.

Duty

Something that the law says the Council must do.

Eligible Needs

/

A person will have eligible needs if they meet all of the following:

Eligible for Support

- they have care and support needs as a result of a physical or a mental condition
- because of those needs, they cannot achieve two or more of the outcomes specified
- as a result, there is a significant impact on their wellbeing

The outcomes are specified in the regulations, and include people's day-to-day outcomes such as dressing, maintaining personal relationships, and working or going to school.

Financial Assessment

Under Section 17 of the Care Act 2014 This is the dialogue the Council has to have with the service user or their representative to gather information and the formal means-test under the relevant charging policy rules, once all the information has been gathered. This helps determine whether or how much an adult can afford to contribute towards any care and support services and to record other financial details such as benefits.

Home care

Sometimes known as domiciliary care, this is care and support provided in the individual's home to meet their assessed needs and maintain their independence.

Local Authority

The Council

Nursing Care

The social and health care provided to a person who is living in a care home registered with the Care Quality Commission as a nursing home, rather than their own home.

Placement

A placement is made when the council agree they will place an individual under the care of a provider to supply care and support for the individual

Residential Care

The care provided to a person who is living in a care home on a temporary or permanent basis (any establishment providing accommodation with personal or nursing care) rather than their own

home.

Self-Funder

Any person who funds all their own care and support services or who has their care costs paid for by a third party such as a family member.

Supportive Lifestyles

Services that assist individuals with eligible social care needs to live ordinary lives in the community

Short Breaks

Short term residential care for the cared for person which enables a carer to look after their own health and wellbeing and to take a break from caring.

Wellbeing

Section 1 of the Care Act 2014
The individual aspects of wellbeing are those outcomes most relevant to a person with care and support needs and carers.

Document information

Contacts

Policy prepared by David Coleman, Head of Business Systems

Further information

Email: adultcommissioning@cornwall.gov.uk

Phone: 0300 1234 131

Alternative formats

If you would like this information in another format please contact:
Cornwall Council, County Hall, Treyew Road, Truro TR1 3AY

Telephone: **0300 1234 100** email: enquiries@cornwall.gov.uk

www.cornwall.gov.uk

Please consider the environment. Only print this document if it cannot be sent electronically.