

## Response to Request for Information

Reference      FOI 001376  
Date            31 July 2017

### ***Care Home Third Party Top Ups***

**Request:**

I am writing to request the following information under the Freedom of Information Act for your local authority.

In all data and questions please include all types of care homes including with nursing and without as well as dementia specialist homes within any reference to 'care homes'.

Our Freedom of Information request centres around the issue of care home third party top ups- that is, the process whereby a relative or friend may pay an extra amount of money so that an older person may go to a care home that costs more than the council is offering to pay someone as their personal budget.

### **Third Party Top-Ups**

1. (a) What is the total number of care home placements for individuals aged 65+ organised by the local authority?  
Please provide data for the following dates.  
31 March 2017  
As at 31<sup>st</sup> March 2017 there were 928 clients 65+ (883 permanent placements, 48 temporary placements) in care home placements organised by the local authority  
31 March 2016  
As at 31<sup>st</sup> March 2016, there were 989 clients 65+ (887 permanent placements, 102 temporary placements) in care home placements organised by the local authority
- (b) What is the total number of care home placements that include a third party top-up for someone aged 65 and over organised by the local authority?  
Please provide data for the following dates.  
31 March 2017  
As at 31<sup>st</sup> March 2017 there were 198 placements for clients aged 65+ which included a third party top-up .  
  
31 March 2016  
As at 31<sup>st</sup> March 2016 there were 101 placements for clients aged 65+ which included a third party top-up .

- (c) Of the total number of care home placements for someone aged 65 and over that include a third party top-up, how many of these agreements are between:
- i) the third party, the provider, and the local authority
  - ii) just the third party and the provider

Please provide data for the following date.

31 March 2017

All top ups mentioned above in 1b would be between the Council, the home and the third party, our contract with the care homes does not allow for care homes to contract directly with a third party.

2. What percentage of those individuals aged 65+ who have entered a third party top-up arrangement with the local authority were presented with a written agreement before starting the payment, as outlined in the Care Act 2014?

Please provide data for the following financial years.

1 April 2016 – 31 March 2017

1 April 2015 – 31 March 2016

Your request for information has now been considered. Unfortunately, City of Wolverhampton Council cannot supply the information you requested for the reasons set out below. Section 17 of the Freedom of Information Act 2000 requires City of Wolverhampton Council, when refusing to provide such information (because the information is exempt) to provide you, the applicant with a notice which:

- (a) states the fact,
- (b) specifies the exemption in question and
- (c) states (if that would not otherwise be apparent) why the exemption applies:

In relation to your particular request, the following exemption applies:

**Section 12 - Exemption where cost of compliance exceeds appropriate limit**

We can confirm that the Council holds information falling within the description specified in your request. However, Section 12 of the Freedom of Information Act 2000 allows a public authority to refuse a request if the cost of providing the information to the applicant would exceed the 'appropriate limit' as defined by the Freedom of Information.

The Regulations provide that the appropriate limit to be applied to requests received by local authorities is £450 (equivalent to 18 hours of work). In estimating the cost of complying with a request for information, an authority can only take into account any reasonable costs incurred in:

- (a) *Determining whether it holds the information,*
- (b) *Locating the information, or a document which may contain the information,*

- (c) *Retrieving the information, or a document which may contain the information,*  
and  
(d) *Extracting the information from a document containing it.*

*For the purposes of the estimate the costs of performing these activities should be estimated at a rate of £25 per hour.*

The information appertaining to this question is not easily accessible and as such this information is not held as a distinct set able to be retrieved or reported on. To get the information would require a full scale look into all individual records, approximately over 300 records. This would be a manual exercise and as such we believe that the aggregated time it would take to collate the information would be in excess of 18 hours (equivalent to a notional cost of £450).

3. How often does the local authority review third party top-up agreements for care homes in your area with the individual who pays this top up? (Please specify whether this review takes place as part of the service user's annual review and also how the third party is included.)

Please tick appropriate answer.

More than once a year

Once a year (As part of service user's annual review)

Once a year (Not as part of service user's annual review)

Less frequently than once per year

Other (Please specify)

4. What information and advice services are provided by your local authority to ensure people receive 'sufficient' information and advice prior to entering a third party top-up agreement? Please specify both online and offline sources. (Please attach any information materials made available if possible.)

Does this include a referral to independent financial information and advice?

(Please attach any information materials made available if possible. We would be particularly interested to know if a directory is provided.)

*There is information on WIN about third party top ups that is available to the public. Information is also given by social workers when they undertake an assessment. See attached leaflet*

5. How does the council satisfy itself that each person assessed as needing state funded care has been offered at least one care home place that can be met within their personal budget?

*It is documented in observations records which homes have been have been explored and costing.*

Please include any guidance procedure or policy documents describing the steps that should be taken to ensure that an option not requiring a third party top up has been offered.

More information is available on Residential Charging on the Council website where Factsheet 3 on top-ups can be found.

<http://www.wolverhampton.gov.uk/adultcareinformation>

We also attach the social worker flow chart for residential placements including top-ups.

### **Deferred Payments**

6. For each of the financial years below, how many applications did the council receive for deferred payments with regards to care homes and how many of these were accepted?

Please provide data for the following financial years.

1 April 2016 – 31 March 2017

1 April 2015 – 31 March 2016

1 April 2014 – 31 March 2015

The Universal Deferred Payments scheme under the Care Act 2014 was introduced in April 2015 and from This date to 31/3/2017, the City of Wolverhampton Council has received 70 applications and accepted 70 Deferred Payment Agreements.

### **Market Shaping**

7. How does the Local Authority satisfy itself that it has met its need to ensure a person with assessed care needs has a variety of high quality (care) services to choose from (as outlined in the Care Act 2014)?

The local authority through its Market Position Statement advise the local care market of their commissioning intentions, this informs the care market of service gaps and commissioning opportunities to make sure that there are sufficient services available for people to access. Wolverhampton has a Quality Assurance function within the commissioning team, this team undertake quality visits to all commissioned services, to ensure that they are providing quality services.

8. Does the local authority take into account the Care Quality Commission ratings of care homes when choosing which care home placements to offer individuals who have been assessed as needing state funded care?

Yes

No

9. a.) If yes, of all of those people who have been assessed as needing a state funded care home placement, what number and percentage were placed in a care home rated by the Care Quality Commission as either 'inadequate' or 'requires improvement'?

The Local Authority does not place people into homes that are 'inadequate' but that the homes may have become 'inadequate' after the placement was made.

[NOT PROTECTIVELY MARKED]

Please provide data for the following financial years.

1 April 2016 – 31 March 2017 – 138 (of which 6 were placed in homes that were rated Inadequate)

1 April 2015 – 31 March 2016 – 148 (of which 2 were placed in homes that were rated Inadequate)

The Council has a policy of suspending all homes when they are rated 'inadequate' by CQC.

- b.) Please provide statistics for the number of people who are residents in 'inadequate' and 'requires improvement' care homes on the following dates.

31 March 2017 - 286 - (of which of which 25 were placed in homes that were rated inadequate)

31 March 2016 - 350 – (of which 13 were placed in homes that were rated Inadequate)

Should answering this request exceed the 'appropriate limit' under the FOI Act please prioritise what can be done within the timeframe.

# Going into a Care Home - Paying for Residential Care

April 2017

[www.wolverhampton.gov.uk](http://www.wolverhampton.gov.uk)

## Factsheet 3

### Choice of Accommodation and 'Top-ups/Third Party Contributions'

#### Personal Budgets

As part of the care and support planning process, if it is decided that your care needs are best met within a Care Home the Council will inform you of your personal budget, this is the cost the Council would expect to pay to be able to meet your care and support needs.

#### Choice of accommodation

You have the right to choose which care home is most suitable for you. The Council will make the arrangements for you to move to that care home providing that:

- the accommodation is suitable in relation to your assessed needs,
- to do so would not cost the Council more than the amount specified in your personal budget for accommodation of that type,
- There is a room available,
- the provider of the accommodation is willing to enter into a contract with the Council to provide the care at the rate identified in your personal budget on the Council's terms and conditions.

This choice is not limited to care homes within Wolverhampton and if you choose a care home outside of Wolverhampton then we would take into account any variation in care costs in the area you choose before agreeing a personal budget that meets your needs.

The Council will ensure that at least one option is available that is affordable within your personal budget. If there is no suitable accommodation available at the amount identified in your personal budget, the Council will adjust the budget accordingly to ensure that your needs are met.

#### 'Top-ups' or 'third-party contributions'

If you choose a care home that costs more than your personal budget when there are care homes with available places that can meet your needs within your personal budget, then a 'top-up'/third-party contribution will be required to meet the difference between the amount specified in the personal budget and the actual cost. A friend or family member could be the 'third party' making these payments.

#### Agreeing a 'top-up' payment

When entering in to an agreement to pay a 'top-up', a third party will need to be aware of the financial commitment involved and recognise that the payments will need to be made for the duration of your placement which could be some time into the future. The 'third party'

person will be asked to enter into a written agreement and the Council may request evidence that they are able to sustain the payments.

The agreement may include that a 'third party', or in certain circumstances listed below, you, will need to make the additional payments for the full duration of their stay and that if the additional cost is not met you may need to move to an alternative care home where the cost can be met within your personal budget.

### **First party 'top-ups' (called 'Self-top-ups')**

You, as the person going into a care home, may wish to make the 'top-up' payment yourself in order to move into the care home of your choice however, you can only do this in certain circumstances as set out in the Care Act 2014. These are:

- where you are subject to a 12-week property disregard,
- where you have a deferred payment agreement with the Council (see Factsheet 2),
- where you are receiving accommodation provided under Section 117 for mental health aftercare.

If you have a deferred payment agreement because the value of a property you used to live in is being taken into account, it may be possible to add a reasonable 'top-up' amount to the amount being deferred. This is called a deferred self-top-up (see Factsheet 3).

### **Self-funders without capacity**

Where a person moving into a care home has capital over the threshold and does not have a person legally appointed to act for them in terms of making finance and welfare decisions, the local authority can arrange for care and support on their behalf.

Self-funders will have to pay for the full cost of any care and support arranged for them including any top-up in cases where they choose a setting that is more expensive than the amount identified in their personal budget.

#### **Example 1**

John had a Care Act assessment which showed that he had eligible needs which could

only be met in a care home. He was advised that a personal budget of £379.54 per week was considered appropriate to meet his needs.

John's family visited a number of care homes in Wolverhampton with places available that could meet John's needs and decided on a home that John would like with a weekly cost of £399.54. There were other homes available that could meet John's needs at £379.54 but his family preferred one that cost £20 more.

A third-party contribution/top-up was discussed with John's family and they agreed to pay the additional £20 per week as a third-party contribution.

#### **Example 2**

Erika's Care Act assessment showed that she needed care in a nursing home and she was given a personal budget of £370.22 to meet her needs.

Erika's family and her Social Worker looked at a number of nursing homes in the area but only one of them was able to meet Erika's needs and this cost £420.22 per week.

As there was only one nursing home placement available that was able to meet Erika's needs the Council increased Erika's personal budget to £420.22 per week to allow for the cost of this more expensive accommodation which was required to meet her needs.

#### **Example 3**

Raj suffers from dementia and it has been agreed that his eligible care needs are best met in a care home. Raj has been given a personal budget of £432.46 per week. He is a homeowner and his daughter has a Lasting Power of Attorney (with Finance and Welfare) to support Raj with his choices. Raj's daughter visits a number of care homes that have various different fees. They can all meet Raj's needs but there is one that she feels will best suit her father that costs £472.46 per week.

Raj is entitled to a 12-week property disregard and Raj's daughter asks whether the additional cost can be met with a deferred self-to-up. There is sufficient equity in Raj's property and therefore it is agreed that the top-up can be added to a deferred payment agreement with the Council.



