

Choice of Accommodation and Additional Payments (Top Up's) Practice Guidance

LONDON BOROUGH OF CAMDEN

ADULT SOCIAL CARE

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1.0 Introduction

This guidance relates to accommodation types specified in the Care Act 2014:

- Residential / Nursing Care
- Extra care housing
- Shared Lives schemes
- Supported Living accommodation

This includes the provision of aftercare under Section 117 of the Mental Health Act 2005 where a person has been detained in hospital for treatment.

2.0 Definitions

Types of accommodation

Where 'types' of accommodation are referred to in this document each type is one of the accommodation types specified in the Care Act 2014:

- Residential / Nursing Care
- Extra care housing
- Shared Lives schemes
- Supported Living accommodation

Setting

Where 'setting' is referred to this means different accommodation choices of the **same** type.

Example

- Extra Care Sheltered is a **type** of accommodation.
- Esther Randall Court and Mora Burnet House are two different Extra Care **settings**

3.0 Care and support statutory guidance

Annexe A of the care and support statutory guidance states that Councils must ensure that;

*'People are able to express a preference about the **setting** in which their needs are met through the care and support planning process. ... Once (the support plan) is agreed, the choice is between different **settings**, not different **types**. For example, a person cannot ... choose a (care home) when the care and support planning process, which involves the person, has assessed their needs as needing to be met in a (shared lives scheme).'*

This means that the type of provision (Care Home, Supported Living, Shared Lives etc.) should be determined during the support planning process. People can 'express a preference' about the setting in which their needs are to be met but not the type.

4.0 Case Study 1

Case study Mr A Part 1 – choice of accommodation

During Mr A's assessment and support planning process it is determined that his needs can be met in a Shared Lives placement. This is the **type** of placement.

Mr A is shown a Shared Lives setting in Kentish Town. He does not like this option and his family express a preference for him to move to a residential home near where they live in Hampshire.

This is refused by the Local Authority as it is a different type of accommodation to the type identified in the support plan

The social worker explores different options and finds a Shared Lives scheme in the same area.

Mr A and the family are happy with this choice and express a preference for this placement.

5.0 Additional Payments (top ups)

An additional payment (top up) is when extra money is needed to fund the difference between the value of an individual's social care personal budget and the cost of their chosen accommodation setting. The payment may be required where the chosen accommodation costs more than the amount in the personal budget.

6.0 Camden process for 'top ups'

6.1 Support planning

When developing a support plan for people with eligible needs, a personal budget sufficient to meet eligible care and support needs must be provided.

6.2 Support at home and the community

If the individual is receiving a support service in the community or in their own **home** and they wish their needs to be met at a cost above that agreed in their personal budget, they will need to enter into a private agreement with a service provider for any additional costs. **Legislation prevents** us from accepting a top up from an individual for care and support being delivered in the community or in a person's own home.

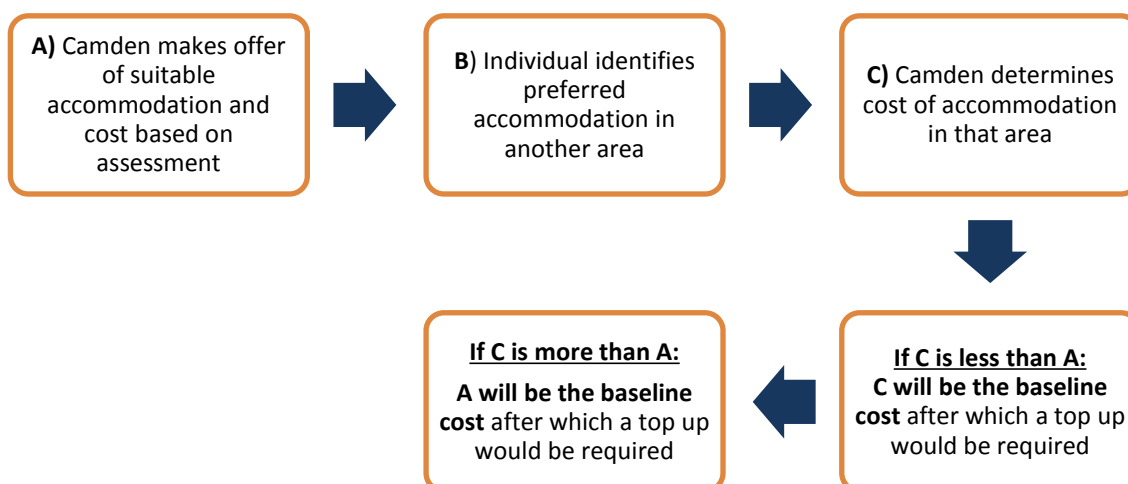
6.3 Specified accommodation

When support is to be met in **specified accommodation** as listed above, an individual has the right to choose an accommodation setting that is suitable and available at the cost that Camden has agreed in your personal budget.

If we are able to arrange support in the specified accommodation at the agreed cost, but the individual chooses a service provider which costs more, we can arrange this chosen accommodation if an additional payment (top up) can be made.

6.4 Accommodation choice and top ups in other areas

If an individual identifies alternative accommodation in a different location which costs less than suitable accommodation in Camden, the individual may still be required to pay a top up if Camden is able to identify suitable accommodation **in the same area** at a lower cost than the preferred accommodation. The decision process for determining whether a top up is required is set out below:



Example:

- Camden offers accommodation in Camden for £770
- Individual identifies accommodation in Wales for £700 per week
- Long Term Care Finders identify suitable accommodation in same area for £600 per week.
- Individual would need to pay £100 per week top up in order to move to their preferred accommodation

6.5 Fee negotiation by Camden

Where it appears that a top up could be required, Camden may be able to negotiate a fee reduction so as to reduce or remove the need for a top up'. The practitioner will need to send a task via Mosaic to the Long Term Care Finder team, who will contact the accommodation provider to negotiate a rate which may be lower than the one quoted to the individual.

6.6 Top up application process

If an additional payment is still required, the practitioner must inform the individual of the amount of the top up. The top up can be paid by someone else (i.e. a third party) from their own income and/or savings; or the individual can make the top up if:

- Their property is being disregarded in the first 12 weeks of staying in a care home and they have sufficient disregarded income or savings to afford the top up payment.
- After 12 weeks – if they have entered into a [Deferred Payment Agreement](#) with Camden

The person offering the top up must be willing and able to meet the additional cost. If the individual wants to proceed with the top up, then they need to make an application form providing details of their financial circumstances.

The Awards and Contributions Team will assess whether the top up is affordable and sustainable.

If the person who is due to pay a top up cannot produce acceptable evidence of their ability to pay the top up for the expected period of placement, a placement that depends on a top up cannot be agreed.

6.7 Information and advice

Practitioners should provide the individual or the third party with information and advice to ensure they understand the terms and conditions linked to top ups. We also recommend that they seek independent financial advice (see [Camden Care Choices](#) for further details) about other options for paying for the costs of their care.

6.8 Arrangement and Monitoring

If the individual wishes to proceed with the arrangement and we are satisfied it is affordable, they or the third party will be required to enter into a written agreement with Camden to meet the additional cost of their chosen accommodation.

The agreement will make it clear that the individual or the third party will need to meet the additional cost for the duration of their stay in the accommodation.

The top up will be paid to the accommodation provider. If there are any issues with the payments the awards and contributions team will contact the individual or third party to discuss further action. This may include:

- Debt recovery action to recover additional costs defaulted on; and
- A referral to care management to complete a fresh assessment, review the current funding arrangements and possible alternative accommodation within the personal budget.

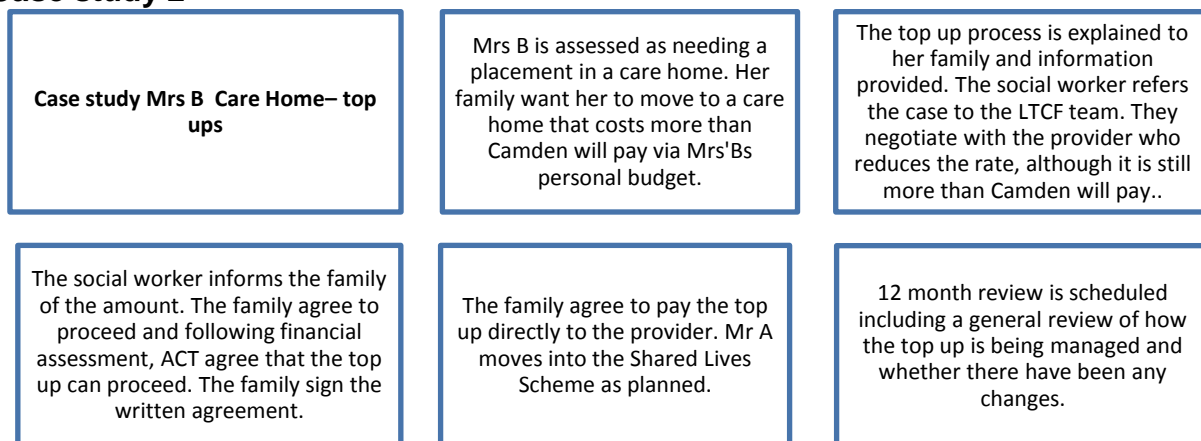
If a third party defaults on a top up, it is important they understand that Camden are likely to require the individual is moved to alternative accommodation at a cost that is affordable to the Council

The top up may be subject to change. During scheduled reviews of the care and support plan it should be determined whether there have been any changes in the situation.

Reviews outside of this should also occur if:

- the cost of your accommodation has changed
- if the individual or third party's financial circumstances have changed

7.0 Case study 2



8.0 Choice of accommodation and mental health after-care

Regulations made under section 117A of the Mental Health Act 1983 enable individuals who require after-care under section 117 to express a preference for particular accommodation if accommodation of the types specified in the regulations is to be provided as part of that after-care.

People who receive mental health after-care have broadly the same rights to choice of accommodation as someone who receives care and support under the Care Act 2014. But some differences arise because after-care is provided free of charge and, as the legislative requirement for a care and support plan under the Care Act 2014 does not apply to section 117 after-care, the care plan should instead be drawn up under guidance on the Care Programme Approach (CPA).

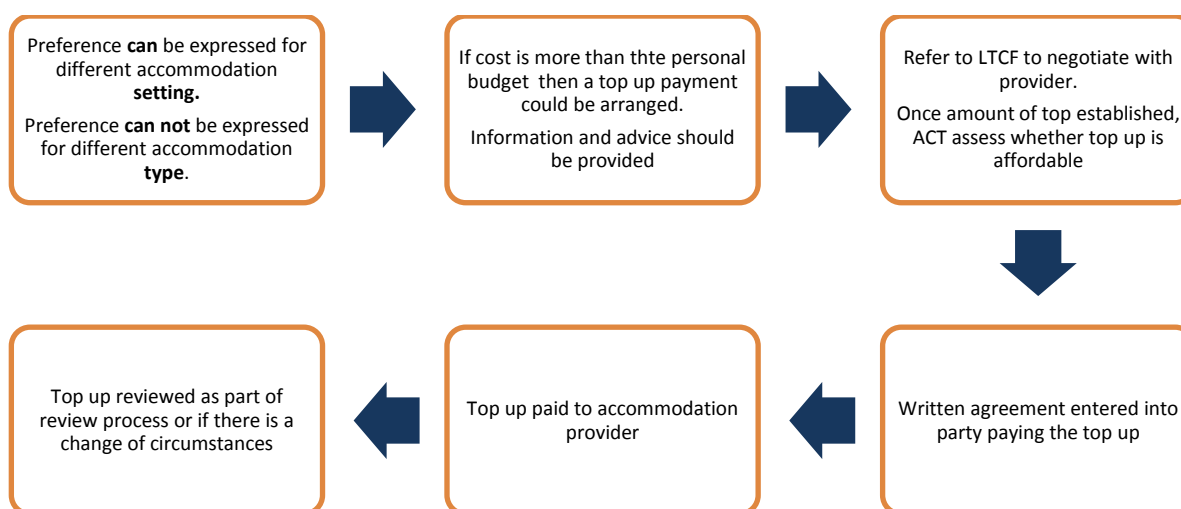
The person should be fully involved in the care planning process. Care planning under the CPA should, if accommodation is an issue, include identifying the type of accommodation which is suitable for the person's needs and affording them the right to choice of accommodation set out in the regulations made under section 117A provided that:

- the preferred accommodation is of the same type that the local authority has decided to provide or arrange
- it is suitable for the person's needs

Where the cost of the person's preferred accommodation is more than Camden would provide in a personal budget to meet the person's needs, then Camden must arrange for them to be placed there, provided that either the person or a third party is willing and able to meet the additional cost. The conditions described in 6.7 also apply.

For the purposes of section 117 after-care, references to a third party should be read as including the adult receiving the after-care (because an adult can also meet the additional cost when a local authority is providing, or arranging for the provision of accommodation in discharge of the after-care duty).

9.0 Top Up Flow Chart



10.0 Accommodation choice and self-funders

If an individual presents as requiring accommodation and has sufficient funds that they are likely to be considered a self-funder, Camden should provide appropriate information and advice including:

- Signposting to independent financial advice
- Information on different settings and types of accommodation.

10.1 Arranging accommodation for self-funders

Where an individual has capital over the threshold of £23,250 and they either have capacity to make the decision regarding their accommodation, have an appropriate legally appointed representative, or have the capacity to appoint a third party representative, Camden has no duty to make arrangements relating to this accommodation. Any arrangements need to be made by the individual or any legally appointed representative and our duty is limited to providing advice and assistance.

Where an individual does not have capacity to make this decision, and does not have a legally appointed representative or the capacity to appoint one, Camden may need to support this individual to make accommodation arrangements pending the appointment of a legal representative, although we should first seek to assist people make a private arrangement and only if this is not possible consider short term funding arrangements.

11.0 Additional information and review

This guidance will be reviewed annually or earlier in accordance with relevant changes in legislation, regulations or guidance. Any major changes to this guidance will be subject to consultation.

An ASC Practice Guide has been developed to support Camden adult social care practitioners understand and deliver their duties in line with the legal requirements outlined in the Care Act 2014.

The ASC Practice Guide can be found [here](#).