

# Adult Social Care Choice in Bracknell Forest

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# Disclaimer

This document has been produced by Bracknell Forest Council for general information and guidance purposes only. It is not a definitive statement of the law, but considers relevant legislation, statutory guidance, recommended practice, and policies. Whilst Bracknell Forest Council endeavours to keep the information accurate at the time of publication of this document, the contents may be subject to change following amendments to the law, practice, or policy.

## Note

It is recommended that, where appropriate, this booklet is read in conjunction with the following booklets, also produced by the Council:

- Residential Care: Deferred Payments
- Residential Care: Top Up's
- Paying for care in Bracknell Forest

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# Choice of accommodation

Where the Council is responsible for meeting your care and support needs and your needs have been assessed as requiring a particular type of accommodation to ensure that they are met, you have the right to choose between different providers of that type of accommodation, provided 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
- the accommodation is 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, within the Council's terms and conditions

The type of accommodation specified in the [Care and Support and After-care \(Choice of Accommodation\) Regulations 2014](#) are:

- Care home accommodation.
- Shared lives scheme accommodation; or
- Supported living accommodation

As a part of the care and support planning process, where more than one suitable care option is available to meet the assessed eligible need (i.e., a nursing home placement or live-in care) the total cost of each package will need to be identified and assessed for the overall cost effectiveness; this includes taking into account each option available to meet the assessed needs and weighing this up against risk, effectiveness and cost. Risk management must be proportionate and reasonable.

It is important to consider whether equipment and/or assistive technology can be used to support the safe delivery of care at home; it is expected that this will be accepted and used appropriately.

The options all need to be considered, and evidence should be recorded against the level of need, market value and risk.

# Preference

The purpose of the care and support planning process is to agree how your assessed needs should be met, and therefore how the Council will discharge its duty, or its power, under the [Care Act 2014](#). The care and planning process should be person-centered and person-led, and you should be given every opportunity to take joint ownership of the development of the plan with the Council if you wish, and the Council agrees. You may express a preference between different options that meet your care needs. For example, where a person has been assessed to require 24-hour care and their needs would be best met in a care home, a person may express a preference for 'live-in care' rather than a care home placement.

As a part of this process, we will take into account your wishes and feelings, your needs, values and aspirations and as a part of the well-being principle, the impact on your right to a private and family life in accordance with [article 8 of the Human Rights Act 1998](#) ([legislation.gov.uk](http://legislation.gov.uk)).

If there is more than one available alternative that could reasonably meet your needs, the LA can take account of its resources, e.g., where one type of accommodation would involve significantly more expenditure than the other.

However, the LA will take a person-centered approach to identify solutions and pay due regard to your needs, including family and social support systems, cultural and faith-based needs and CQC quality ratings.

When taking into account your [human rights](#), the decision must be reasonable and proportionate.

The final decision rests with the council in ensuring the outcome desired is delivered at the best value.

While there is no set upper limit on the cost of care, the expectation is that the most cost-effective option will be commissioned that meets your assessed social care needs whilst meeting the desired outcomes.

'Live-in care' in a person's own home can often be considerably more expensive for the council than delivery of equivalent services in a care home.

Such packages have the benefit of keeping a person in familiar surroundings and / or enabling a family to stay together. The council

needs to fairly balance the resources spent on an individual person with those spent on other individuals who meet the eligibility criteria and have similar needs.

If the preferred choice of support meets the assessed requirements, we will support you with the type of support that costs more than your [Personal Budget](#), provided you can arrange for a third party to pay the additional amount.

A personal budget is a statement which specifies the cost to the local authority of meeting assessed eligible needs.

Where you have been assessed to lack capacity to make decisions with regard to your accommodation and /or care, care planning should be considered as a part of best interest decision making in accordance with the principles of the [Mental Capacity Act 2005](#) ([legislation.gov.uk](http://legislation.gov.uk))

When considering preference, the Council can take into account resources when meeting need as The Care and Support and After-care (Choice of accommodation) Regulations 2014 have set out the following conditions in respect of preference:

1. The preferred accommodation is of the same type that the Council has decided to provide or arrange.
2. It is suitable for the person's needs (i.e., the needs identified in the care plan).
3. It is available.
4. Where the accommodation is not provided by the Council, the provider of the accommodation agrees to provide the accommodation to the person on the Council's terms; and
5. Where the cost of the preferred accommodation is more than the amount specified in your Personal Budget for the accommodation of that type, the Council must be satisfied that there is a willing third party able to make a top up payment for the additional cost and the payer enters into a written agreement with the Council to pay this additional cost.

If the accommodation is of the above type AND the above conditions are met, the Council is required to provide / arrange the provision of the preferred accommodation.

Regulation 9 requires the Council to give written reasons for a refusal to provide or arrange for the provision of preferred accommodation.

If you lack the capacity to make a choice for yourself, the Council should provide the choices expressed by your advocate, carer or legal guardian unless in the Council's opinion, it would not be in your best interest.

# Personal Budget

Personal budgets are a key part of the Government's aspirations for a person-centered care and support system. Independent research shows that when implemented well, personal budgets can improve outcomes and deliver better value for money.

Everyone whose needs are met by the local authority, whether those needs are eligible, or if the authority has chosen to meet other needs, must receive a personal budget as part of the care and / or support plan.

There are 3 principles involved in setting a personal budget:

- **Transparency:** the local authority should make their allocation processes publicly available as part of their general information or provide this on a bespoke basis for each person the authority is supporting in a format accessible to them. This will ensure that you fully understand how the personal budget has been calculated, both in the indicative amount and the final personal budget allocation.
- **Timeliness:** when calculating the personal budget an upfront allocation is important and can be used to inform the start of the care and support planning process. This 'indicative allocation' will enable you to plan how the needs are met. After refinement during the planning process, this indicative amount is then adjusted to the amount that is sufficient to meet the local authority's duty under section 18 or 20(1) of the Care Act 2014 or where the local authority decides to meet the care needs under section 19(1) or (2) or 20(6) of the same Act. This adjusted amount then forms the personal budget recorded in the care plan.
- **Sufficiency:** The amount that the local authority calculates the personal budget must be sufficient to meet your needs which the local authority is required to meet under section 18 or 20(1) of the Care Act or decides to meet under section 19(1) or (2) or 20(6). We will take into account the reasonable preferences to meet needs as detailed in the care and support plan.

The Care Act sets out that the personal budget must be an amount that reflects the cost to the local authority of meeting your needs. In establishing the 'cost to the local authority', consideration should be given to the cost of the service delivered at an appropriate quality, through local provision to ensure that the personal budget reflects local market conditions.

# Setting the personal budget

The principles above remain the same for all Care Act assessments:

- A robust care needs assessment to begin with. The budget must be based on meeting the assessed eligible needs.
- An indicative budget that can realistically meet those needs. (If there is no appropriate care available at that cost then the budget needs to be increased to reflect that). We will not use an arbitrary or average cost in this calculation.
- We will give due regard to your preference.

Example: If you choose to purchase a live-in carer service but our assessment concludes that your needs can be met in a care home setting, we need to explore which is the best option with regards to wellbeing and cost. The budget should be calculated based on the assessed needs.

You may choose to ‘top-up’ the budget to purchase the care or care-setting of your choice.

## Third-party top ups

If the fees for your chosen care home are more than the authority would usually pay, someone else (a ‘third party’) may need to agree to pay the difference.

You are not usually allowed to pay the difference yourself. However, there are some exceptions to this. Please refer to the information booklet: Residential Care – Top Ups

The Council’s policy is that the third party must demonstrate that they are willing and able to meet the additional costs for a minimum period of two years.

If a third party is willing to make a top up, a referral to the Financial Assessments team will be required to arrange an assessment. It is possible that the placement may not go ahead until this assessment has been completed.

If the third party is no longer able to top-up the cost of the care following a review, the person may need to move to an alternative care arrangement that can be sourced within their personal budget.



## Agreeing the final budget

The final budget should be agreed at the end of the care and support planning process. This ensures there is scope for the budget to increase (should the budget prove insufficient during support planning) or decrease (should the budget prove to be more than is required, for example where unpaid support or universal services have been identified as appropriate to meet some needs during the support planning process).

Any process in place for agreeing the final budget and associated care and support plan should be transparent and proportionate to the budget involved considering the assessed eligible needs.

## Review of package

It may be appropriate to review some home care packages more often than other cases if the care becomes unsustainable at home. Such examples include:

- Home care packages which require intensive care and support indicate a high level of need which may be more appropriately met within a care home setting.
- People who need waking night care, indicating a high level of supervision may be required which could be more appropriately met within a care home placement
- People who require a high level of direct supervision across a 24-hour period where the clinical need is for a registered nurse to provide supervision or intervention throughout the 24 hours

# Choice that cannot be met and refusal of arrangements

The Council will do everything it can to meet your choice as set out in the document. However, there will be some instances where a choice cannot be met by The Council.

The local authority must offer at least one option that is affordable within your personal budget. The Council will use its best endeavours to suggest alternative options if an offer is refused. However, if a reasonable offer(s) of Providers is refused, the Council may have no alternative but to consider that it has fulfilled its duty to meet your needs. If this decision is taken you will be informed in writing that you will need to make your own arrangements for ongoing care and support.

If you unreasonably refuse the arrangements, Bracknell Forest Council will consider that it has discharged its statutory duty to meet your assessed needs.

You will be informed in writing that as a result you need to make your own arrangements. This will be a last resort, and the Council will consider the risks posed by such an approach, for both the Council and you.

You have the right to use Bracknell Forest Council's statutory complaints procedure to take forward any complaints associated with these arrangements. You must be provided with details about how to make a complaint.

There may be exceptional cases where your preferred choice of support may not meet the Council's criteria but may still be the best option.

Where Council officers consider the matter to be exceptional, the case will be referred to the relevant Adult Social Care Senior Officer.

Decisions taken through this process will be properly recorded and communicated to the service user.

# People who pay the full cost of their care and support

If you are paying the full cost of your care and support and have made your own private arrangement for services, the provider may take action against you to recover outstanding payments, including legal action against you or the third party who signed the contract and agreed to make payments, but has failed to do so. The provider can also cancel the contract by giving notice.

If you have not had an eligible needs assessment from the social care team, you or your representatives should request one via:

- our [online portal](#)
- email: [adult.socialcare@bracknell-forest.gov.uk](mailto:adult.socialcare@bracknell-forest.gov.uk)
- phone: 01344 351500

If you are paying the full cost of your care and support, we will encourage you, or your representatives, to consider what will happen if, over time, your savings/investments reduce, and you become eligible for financial support with your care and support costs from the Council.

If you have existing accommodation that is more expensive than we would usually expect to pay, this may result in you having to move to other accommodation, unless arrangements can be secured by way of another alternative, such as a Third-Party Top-Up.

In this instance, the Council will support you to find an alternative placement of your choice, provided this meets the Council's criteria around suitability, availability, conditions, cost, and quality.

# Reviews and Appeals

As set out in paragraph 10.27 of the Care Act Statutory Guidance, the Council has the discretion to take into account resources and budgetary constraints when considering options of how to meet assessed needs.

If you are not happy with the outcome of your financial assessment, the team manager will look at the financial assessment again. This is called a review.

We will tell you the outcome of the review and the reason for the decision in writing.

## **What if I am not happy with the outcome of the review?**

If you still feel the client contribution is more than you can reasonably afford, you have the right to appeal.

A panel will look at the financial assessment again and make a final decision.

We will give you more information about appeals when we confirm the outcome of the review.

## **What if I am not happy with the outcome of the appeal?**

The decision made by the appeals panel is final. They will review the assessment, consider the information you have provided, and decide if the calculated contribution is fair.

If you are not happy with the outcome of the appeal or if you feel you have been treated unfairly, you may follow our formal complaints procedure.

We will send details of the complaint's procedure to you with the outcome of the appeal.

# What if I need help making an appeal?

There are local voluntary organisations that can offer free and independent advice. These include agencies such as:

- [Citizens Advice Bureau \(CAB\)](#)
- [Age UK](#)
- [Action for Carers](#)
- [Mencap](#)

You can find the contact information for these and other organisations in the local telephone directory.

## Legislation

The Care Act 2014 provides a single legal framework for charging for care and support under sections 14 and 17. It enables a local authority to decide whether to charge a person when it is arranging to meet a person's care and support needs.

Bracknell Forest Council is committed to ensuring it uses a consistent and fair approach to supporting people. This approach will promote high quality, sustainable services for community members that require Social Services.

For further information on the Council's policies around charging for care and support, please visit:

<https://www.bracknell-forest.gov.uk/>

# Privacy

Information will be collected to enable the calculation of charges relating to services provided and assessment of welfare benefit entitlement. In accordance with the Data Protection Act 1998 and the General Data Protection Regulation, this information will only be shared with other relevant people and agencies in accordance with the data protection principles or with your written consent or your legally appointed representative.

You have the right to request to view the personal information held by the Council at any stage.

## Contact details

If you wish to discuss your care services, please contact your allocated care manager or alternatively you may contact:

### **Bracknell Forest Council - Adult Social Care**

People Directorate

Time Square

Market Street

Bracknell

Berkshire RG12 1JD

- BFC ASC [online portal](#)
- email: [adult.socialcare@bracknell-forest.gov.uk](mailto:adult.socialcare@bracknell-forest.gov.uk)
- phone: 01344 351500

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