

Choice in Care Policy



Dorset
Council

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Protection of Property Policy

Policy Details

<p>Purpose</p>	<p>This policy sets out how Dorset Council will work with individuals that have been assessed to have eligible needs under the Care Act 2014.</p> <p>This policy covers home-based or community-based care, where the care and support planning process has determined that a person needs to live in a specific type of accommodation (care homes, shared lives, or supported living and extra care) to meet their identified needs and to circumstances where the council is providing or arranging accommodation in discharge of its duty under section 117 of the Mental Health Act 1983. It also applies to individuals moving to care homes, shared lives, or supported living and extra care accommodations for the first time, as well as those moving between care settings.</p> <p>At present the upper capital limit is set at £23,250, therefore individuals at and above this level will be classed as self-funding. Below this level, a person can seek means-tested support from the council. However, there are some differences where someone is receiving aftercare under section 117A of the Mental Health Act 1983 as this is not chargeable.</p> <p>In some circumstances, an individual may wish to choose a setting that is more expensive than the amount identified for the provision of accommodation in their personal budget. Therefore, a first or a third party will need to enter into an agreement to meet the additional cost. For more information about paying for care please see the council's website: Paying for Care.</p> <p>This policy is in line with statutory guidance and it has been written to help Dorset Council achieve compliance with those measures.</p>
<p>Associated Policies</p>	<p>This policy should be read in conjunction with the following policies: Eligibility and Assessment Criteria of the Adult Policy Direct Payment Policy Section 117 Mental Health After-Care Dorset Joint Policy</p>
<p>Scope</p>	<p>This policy relates to the following groups who have assessed Care Act 2014 eligible care and support needs:</p> <ul style="list-style-type: none"> • those aged 18 or over



	<ul style="list-style-type: none"> • young people’s next steps into adult care and support • people ordinarily resident in the Dorset Council area or present with no settled residence
Author(s)	Izzy de Saeger, Policy & Engagement Lead
Date policy approved	February 2025
Policy Approved by	Quality Assurance and Operations Group
Status	Live. The policy will be mandatory for all colleagues and delegated organisations to whom it applies.
Date for review	February 2027 / 1 years after approved, or earlier if underpinning legislation changes.
Underpinning Guidance and Legislation	The Care Act 2014 , care and support statutory guidance and the care and support and aftercare (choice of accommodation) Regulations 2014 . This policy must be read in the context of other applicable Dorset Council Adult Care policies: Eligibility and Assessment Criteria of the Adult Policy
Equality Impact Assessment	The Department of Health (DH) prepared an Impact Assessment to understand the costs, benefits, and implications of the Care Act 2014. The Dorset Council policy can rely on the Government’s Impact Assessment as it is designed to ensure compliance with the Act.

1. Who this policy applies to

1.1 This policy applies to individuals who are eligible for adult social care funding to meet their assessed eligible needs within their allocated [personal budget](#). This includes those who have funded their care and are at or below the threshold of £23,250. It also encompasses individuals for whom the council is providing or arranging accommodation in discharge of its duty under section 117 of the [Mental Health Act 1983](#). This policy supports the council’s Adult Social Care staff in offering choice to individuals regarding how their care and support are delivered, in line with the principles of promoting individual well-being and person-centred care.



1.2 If there is reason to doubt the decision-making ability of a person being supported under the [Care Act 2014](#), a capacity assessment will be completed under the [Mental Capacity Act 2005](#). If such an assessment concludes that the person lacks decision making ability in relation to their care and support needs, decisions will be made in the person's best interests using 'least restrictive practice' principles of the Mental Capacity Act 2005. This means asking people for their views around the decision and referring for an Independent Mental Capacity Act Advocate (IMCA) if required. Where a person has a legally appointed [power of attorney](#) or [deputy](#) for health and welfare, they will be the decision maker under 'best interest decision making'.

1.3 However, in cases where restrictions amount to a deprivation of liberty, the person will need these care arrangements authorised either by a [Deprivation of Liberty Safeguards](#) authorisation (for people in care homes or hospitals) or by a Community Deprivation of Liberty Order through the [Court of Protection](#) (for people in supported living or their own homes).

1.4 Where there is reason to believe that the person may be at risk from self-neglect or abuse, a safeguarding referral must be made.

2. Promoting Independence

2.1 The council recognises that all its residents want to remain independent for as long as possible. The [care and support statutory guidance](#) emphasises in chapter 1.14' that:

"c) The importance of preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist. At every interaction with a person, a local authority should consider whether or how the person's needs could be reduced or other needs could be delayed from arising. Effective interventions at the right time can stop needs from escalating, and help people maintain their independence for longer".

2.2 Wherever possible we will aim to reduce needs that already exist and to prevent or delay the development of additional needs for care and support.

2.3 To be read in conjunction with this policy is Dorset Council's [Eligibility and Assessment Criteria of the Adult Policy](#).



3. Care Act 2014 Guidance

3.1 In addition to promoting independence, the [Wellbeing Principle](#) also states that the council is required to consider an individual's views, wishes, feelings and beliefs. The [care and support statutory guidance](#) emphasises in section 1.14:

“b) Considering the person's views and wishes is critical to a person-centred system. Local authorities should not ignore or downplay the importance of a person's own opinions in relation to their life and their care. Where particular views, feelings, or beliefs (including religious beliefs) impact on the choices that a person may wish to make about their care, these should be taken into account. This is especially important where a person has expressed views in the past, but no longer has capacity to make decisions themselves.”

and

“d) The need to ensure that decisions are made having regard to all the individual's circumstances (and are not based only on their age or appearance, any condition they have, or any aspect of their behaviour which might lead others to make unjustified assumptions about their wellbeing). Local authorities should not make judgments based on preconceptions about the person's circumstances, but should in every case work to understand their individual needs and goals”

and

“e) The importance of the individual participating as fully as possible. In decisions about them and being provided with the information and support necessary to enable the individual to participate. Care and support should be personal, and local authorities should not make decisions from which the person is excluded.”

and

“f) The importance of achieving a balance between the individual's wellbeing and that of any friends or relatives who are involved in caring for the individual. People should be considered in the context of their families and support networks, not just as isolated individuals with needs. Local authorities should take into account the impact of an individual's need on those who support them and take steps to help others access information or support.”

3.2 People are supported to express preferences about how their care is delivered, and when commissioning care we will take that into account. We will not always be able to meet all preferences, but we will ensure that a person's care needs are met.



4. Best Value

4.1 The council will always follow the [care and support statutory guidance](#) when establishing the most appropriate care and support package. The council will fully consider the individual's preferences as well as consider the best value when identifying the setting in which the care is to be delivered.

The [guidance](#) in paragraph 10.27 states the following:

“In determining how to meet needs, the local authority may also take into reasonable consideration its own finances and budgetary position and must comply with its related public law duties. This includes the importance of ensuring that the funding available to the local authority is sufficient to meet the needs of the entire local population. The local authority may reasonably consider how to balance that requirement with the duty to meet the eligible needs of an individual in determining how an individual's needs should be met (but not whether those needs are met). However, the local authority should not set arbitrary upper limits on the costs it is willing to pay to meet needs through certain routes – doing so would not deliver an approach that is person-centred or compatible with public law principles. The authority may take decisions on a case-by-case basis which weigh up the total costs of different potential options for meeting needs and include the cost as a relevant factor in deciding between suitable alternative options for meeting needs. This does not mean choosing the cheapest option; but the one which delivers the outcomes desired for the best value.”

4.2 The council will make decisions on a case-by-case basis; considering an individual's personal budget and weighing up the total costs of different options for meeting the individual's needs. In doing so, the council can include cost as a relevant factor in deciding between suitable alternative options for meeting needs and delivering the desired outcomes for the best value. For these exceptional circumstances to apply we would expect there to be clear evidence that the more expensive option is likely to have greater impact in reducing dependence on publicly funded care. There should also be a clear timetable for reviewing the care package and for considering reducing the cost of the care package.

4.3 If an individual wants to meet their needs in a way that is more expensive than best value, then the individual will be required to fund the additional amount above the cost of the provisions offered by the council. In such circumstances, individuals are advised to consult the council's website: [Paying for Care](#) and/or speak to your allocated representative from adult social care. In circumstances where a person is not open to an allocated worker, please make contact with the council via telephone:



During office hours

Our telephone lines are open Monday to Friday 8.30am to 5pm.

Tel: 01305 221016

Outside of office hours

5pm to 8am Monday to Thursday

4pm Friday to 8am Monday

Tel: 01305 221000

5. Capital Drop

5.1 If a person has been self-funding their care due to having savings over £23,250, and their savings fall below this threshold, a Care Act 2014 assessment will be conducted to determine eligibility under the Act, provided they consent or through best interests' decision-making in accordance with the Mental Capacity Act 2005. If found eligible, a plan will be created outlining the necessary services and support, developed in collaboration with the person and their carers to ensure it meets their assessed needs.

5.2 If the outcome is that they do not have Care Act 2014 eligible needs, they will not be able to receive assistance with the cost of their care needs.

5.3 Where the person is eligible for support under the Care Act 2014, and in line with the approach outlined at Section 7 below, the council will offer at least one best value option to meet the person's needs.

5.4 The council will try to keep the person at their current care home if it meets their assessed needs and outcomes, and it is within their identified personal budget. However, if the care home's rates are higher than the personal budget the council will offer alternative accommodation that provides best value and meets their assessed needs.

5.5 If the person chooses to stay at their current care home and it costs more than identified personal budget, they may need to pay an additional cost or 'top-up' to cover the difference, via either a first or third party top up.

5.4 An adult with capital above the threshold is not entitled to have their placement commissioned by the council unless they are under a Deferred Payment Agreement.



5.6 For individuals covered by Section 117 of the Mental Health Act 1983 who have been contributing an agreed top-up, a review of their aftercare needs will be conducted if they can no longer top up their care. Based on this review, a decision will be made regarding the future funding of this top-up for identified eligible care needs under the Care Act 2014, such as accommodation and other Section 117 aftercare needs, considering any applicable eligibility criteria under the Care Act 2014.

6. Choice through Direct Payment or Individual Service Fund payments

6.1 If someone is eligible for social care assistance from the council, they will be offered a Direct Payment (DP) or Individual Service Fund (ISF) as one of the range of options to meet their needs. This enables them to personally arrange the necessary support to achieve assessed eligible needs outcomes. It may involve selecting a provider that the council doesn't typically work with.

6.2 The gross amount of the DP or ISF will be equivalent to the council's personal budget of the reasonable cost of securing the provision of the service concerned to meet the needs for which it has a duty or power to meet. However, this may be increased in exceptional circumstances if there is a preferred, more flexible option requested by the person that would lead to better outcomes, and the cost of this option provides best value for money.

6.3 In estimating the reasonable cost of securing the required support, the council will take into account the associated costs incurred without which the service could not be provided lawfully. For example, recruitment costs; national insurance contributions; holiday; sick and maternity pay; insurance; payroll services; and criminal record checks. However, if a service of the required standard can be secured more cost-effectively in another way without unreasonably restricting choice and control, the council may limit the personal budget accordingly.

6.4 If an individual wishes to meet their needs in a way that is more expensive than the best value options, then the individual will be required to fund the additional amount.

6.5 The [Care Act 2014](#) currently restricts the council from offering DP's for long-term care in a care home (with or without nursing) setting.

6.6 DP's and ISF's may be offered for short-term placements or respite. The Care Act 2014 defines short-term in this context as:

- four consecutive weeks in any 12-month period, or



- two or more periods separated by less than four weeks which added together total four weeks

The council's [Direct Payment Policy](#) and [Individual Service Funds Policy](#) are available for more details.

7. Choice of accommodation to meet care and support needs

7.1 Individuals receiving adult social care funding are able to choose their accommodation as long as the following conditions are met:

- a) It will meet their needs:

As an example if a [care home](#) (with or without nursing) has been identified as the only appropriate way of meeting a person's needs following a Care Act 2014 assessment and support plan then the individual may not choose another type of specified accommodation such as [Supported Living](#), [Extra Care](#) or [Shared Lives](#). They may still express a preference for a particular care home to live in, which will be taken into account but may not be offered depending on the other criteria described here.

- b) It will cost no more than the council would usually pay

In the first instance the best value placement within the specified accommodation, available at the time, is identified and offered. If a person's needs could be met in more than one type of specified accommodation, then the cost of the best value type of accommodation will be offered. Should a person choose to commit to a more expensive provision than the identified best value option then a [first](#) or [third](#) party top-up payment will need to be arranged.

- c) It is available

The preferred choice of provision must be available, assessed to meet the individuals needs and, where the council is commissioning the support, the provider agrees to deliver the care under the council's usual terms and conditions.



8. Choice of home based or community-based care provider

8.1 The council intends that all regulated personal care will be commissioned via direct payments, ISF or through the personal care contract for regulated home based care.

8.2 Direct payments can provide the opportunity for people to make their own care arrangements for their council funded care. The council will inform a person about how they can do this including with their preferred care provider.

8.3 A person can however decline a direct payment and ask the council to arrange their care. When a person does this, they can still express a preferred choice of provider and ask that the council arranges care from them. This applies even if the council does not currently contract with them (i.e. outside of the personal care contract for regulated home based care). However, receiving a preferred provider will require a decision made on a case-by-case basis which weigh up the total costs of different potential options for meeting needs and include the cost as a relevant factor in deciding between suitable alternative options for meeting needs. This is also subject to the provider being available and willing to agree to the council's usual terms and conditions. The principles of best value will apply whether a preferred provider is already under contract with the council or not.

8.4 For unregulated care the person will be offered the provider or providers who are able to meet their needs in the most cost-effective way.

9. Choice of equipment and adaptations

9.1 The council will assess for the need for provision of equipment and minor adaptations under the Care Act 2014. Regulations state that any equipment and any minor adaptation costing £1000 or less must be free of charge. If a person would prefer to have an alternative piece of equipment or adaptation a direct payment can be offered for the amount it would cost the council to meet the need. The equipment or adaptation purchased must meet the outcomes identified through the assessment process.



10. Data protection

10.1 The council is committed to protecting your privacy when using our services. For advice about how we use your personal information and protect your privacy please see the Council's website: [Data Protection Guide - Dorset Council](#).

11. Equality and diversity

11.1 The council's [Equality, Diversity and Inclusion Strategy & Action Plan 2024-2027](#) will help make sure that the Council meets its legal equality duty. [The Equality Act 2010](#) requires the council to take a proactive approach to equality and diversity. The Act 2010 sets out the different ways in which it is unlawful to treat someone, such as direct and indirect discrimination, harassment, victimisation and failing to make a reasonable adjustment for a disabled person.

11.2 When making decisions, the council will adhere to the Equality Act 2010 in order to:

- eliminate discrimination, harassment, and victimisation
- advance equality of opportunity
- foster good relations between different parts of the community

11.3 These cover:

- Age
- Disability
- Gender reassignment and gender identity
- Marital or civil partnership status
- Pregnancy and maternity
- Race (including ethnic or national origin colour and nationality)
- Religion or belief (including lack of belief)
- Sex
- Sexual orientation

11.4 In addition to the characteristics defined in the Equality Act 2010, [Dorset Council](#) has adopted further characteristics, the list is below:

- people who are rurally isolated
- people on low incomes/in poverty
- single parents
- people with a military background and their families
- gender identity
- gender expression



12. Comments, Compliments and Complaints

12.1 We believe in continuously improving our services, so if you have a [comment](#), [compliment](#), or a [complaint](#) we would like you to tell us. Anyone who is dissatisfied with the council's services, or a council decision, or believes that they have been treated unfairly, has the right to make a complaint. If the person remains dissatisfied, they may refer to the Local Government and Social Care Ombudsman.

13 Glossary of Terms and Definitions

Term	Definition
'The council', 'we' and 'us.'	In this policy, the term 'the council' refers to Dorset Council. The terms 'councils' refers to local authorities generally, or as made clear in the text. The terms 'we' or 'us' etc. also refer to Dorset Council.
Financial assessment	The financial assessment is the means test used by local authorities in England to determine how much an adult can afford to pay for their care.
Property disregard	<p>If our assessment of your needs means that you need to move into a care home, you will have a financial assessment to see if you need help to pay for the care home.</p> <p>If you own a property that is your main home, we'll consider whether the value of your home is included in your financial assessment</p> <p>In some circumstances your property will not be included within the financial assessment. This is known as a property disregard.</p> <p>Automatic property disregard The value of your home may be ignored in the financial assessment if someone else has been living</p>



	<p>in the home and continues to live there when you leave. This person may be:</p> <p>your partner, former partner or civil partner, except if you are estranged from that person</p> <p>a lone parent who is your estranged or divorced partner</p> <p>a relative of yours who is over 60</p> <p>your child who is under 18</p> <p>Property disregard for 12 weeks</p> <p>Even if your home is not automatically disregarded because it is occupied, it will still be disregarded for 12 weeks if:</p> <p>you are in permanent residential care (a care home) the outcome of your financial assessment (without including the value of your home) is under £23,250:</p> <ul style="list-style-type: none"> • This may apply when you first enter a care home as a permanent resident, or when the automatic property disregard has unexpectedly ended because your relative has died or moved into a care home. <p>The period gives the adult time to consider what they wish to do with their house, for example sell it, rent it out, apply for a deferred payment agreement. When the period ends, the adult becomes responsible for the full cost of their care.</p>
First-party top-up	<p>For a 'First-Party Top-Up' to be put in place the individual must be willing and financially able to pay the difference between the personal budget and the actual cost of the accommodation (or the associated accommodation costs for supported accommodation), in addition to their assessed contribution.</p>
Third-party top-up	<p>For a 'Third-Party Top-Up', a third-party – such as a family member(s), friend, employer, organisation, or charity – must be willing and financially able to pay the difference between the personal budget and the actual cost of the accommodation (or the associated accommodation costs for supported accommodation).</p>



<p>Care home</p>	<p>A 'care home' is a place where personal care services and accommodation are provided together and registered with the <u>Care Quality Commission</u> (CQC) in England. The care home's services may be provided with or without nursing care.</p> <p>Some homes can provide nursing care as well as personal care because they employ registered nurses. The term care home does not include NHS hospitals, private hospitals, and clinics.</p>
<p>Shared lives scheme</p>	<p>Shared Lives Schemes are an alternative to care in a care home or other more formal care arrangements.</p> <p>Schemes offer people who need care the opportunity to live in a family environment rather than a formal care setting.</p> <p>Schemes are regulated by the <u>Care Quality Commission</u> (CQC).</p> <p>For more information about Shared Lives in Dorset, please see the <u>Dorset's Shared Lives scheme's page</u>.</p>
<p>Supported living</p>	<p>'Supported living' refers to schemes that provide personal care to people as part of the support that they need to live in their own homes. The personal care is provided under a separate contractual arrangement to those for the person's housing. The accommodation is often shared, usually as a small group, but can be single household.</p>
<p>Capital Drop</p>	<p>People whose capital is worth more than the upper capital limit (currently £23,250) have to pay the full cost of their care until their capital drops below this level.</p> <p>The council will contribute towards the cost of meeting eligible needs when the adult's capital falls below £23,250. This is known as capital drop.</p>



<p>Personal Budget</p>	<p>A personal budget is the amount agreed by the council as sufficient to meet an adult’s eligible needs and take into account their reasonable preferences about how they wish their needs to be met when the council is contributing towards the cost of care.</p> <p>Means tested charges apply to care in a care home, shared lives scheme and supported living accommodation arranged by the council. We will ask the adult to have a financial assessment to determine how much they will have to pay towards their personal budget (the total cost of their care). The council will fund any remaining balance.</p>
<p>Home based or community-based care provider</p>	<p>Community-based care, also known as home care, provides support to individuals in their own homes or local communities, enabling them to maintain independence. This includes assistance with personal care needs.</p>
<p>Extra Care</p>	<p>Extra Care housing is accommodation that comprises self-contained flats and communal spaces, with commissioned 24/7 onsite Care and Support services available to residents.</p>
<p>Individual Service Fund (ISF)</p>	<p>An Individual Service Fund is an arrangement whereby a provider both receives and manages the individual’s personal budget. They can provide care and support from their own organisation and/or broker support on an individual's behalf from another organisation or individual. The ISF provider/broker will work with the individual or their representative to agree how they want their care needs to be met, how the budget is spent and will contribute to the support planning process.</p>
<p>Direct Payment (DP)</p>	<p>Direct payments are monetary payments made to individuals who request to receive one to meet some or all of their eligible care and support needs.</p>

