Third party top ups

If you or a member of your family need residential or nursing care, you will no doubt look at a number of different homes in your area. Social services may be available to help with this process. Once you have found a home that you like, you may find that it is more expensive than the local authority “usual cost”. If this happens, you will then need to consider how this extra cost should be met.

What is the local authorities usual cost?

Local authorities set a usual cost for local authority homes. This is an amount equal to the full cost to them of providing the accommodation. Only local authority controlled residential homes charge the local authority’s usual cost. Fees charged by private residential homes and private nursing homes are higher than local authority rates.

What is a third party top-up?

If your capital is below £23,250, you can ask the local authority to enter into a contract with a private home where the fees are higher than the usual cost. This can be a nursing or a residential home. The gap between the actual fees for the accommodation you have chosen and the local authority rate needs to be bridged.

The local authority will look for a willing third party who is prepared to take responsibility for the difference. The person providing the so called “third party top up” might be, for example, a member of the family or a trustee of a family trust.

A common misconception!

It is a common misconception that you can fund your own top up. Section 11.011 of the Charging for Residential Accommodation Guide (the CRAG) states that a resident cannot use their own resources to pay for more expensive accommodation. All local authorities have to abide by the CRAG. So you cannot pay the difference between the fees charged by your private home and the local authority standard rate yourself.

Exceptions

There are two occasions where you may “top up” from your own resources:

• If you move into long term care, have a house to sell, and your cash and investments are below the £23,250 threshold, the local authority will apply a 12 week disregard to your property. The local authority help you to fund the costs of your care for 12 weeks, to allow a reasonable time for your property to sell. The local authority will also allow you to “top up” the fees from your own funds during this time.
If you enter into a deferred payment agreement with the local authority. Under this agreement, the local authority will place a charge on your home. They will then pay their usual cost towards your accommodation. If your accommodation is more expensive than the usual cost then in these circumstances you may make the top up from your own funds. The local authority will be reimbursed for their contribution towards your fees when your home is sold.

**Important point**

Under the Choice of Accommodation Directions 1992, local authorities cannot seek resident or third party contributions where they decide to offer someone a place in more expensive accommodation. If there is no suitable accommodation available at the local authority’s usual cost, then they cannot ask you to make up the difference.

**Signing contracts**

It is important that you take legal advice before you enter into any contractual agreements with either a private home or the local authority. You must be sure that you understand the contract itself and the funding implications.

Think at this point about what might happen if the home you have selected becomes too expensive. Would you have a funding problem and no third party to top up to fill the gap?

In some cases, relatives are signing contracts with the local authority on behalf of residents without realising the personal commitment involved. The “third party” can find themselves personally responsible for paying between £100 and £400 a week by way of top up. If you need a relative to do this for you, or if you have been approached by the local authority to provide this top up, it is vitally important that you take legal advice on the ramifications.

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