

# **ADULT SOCIAL CARE**

## **Adult Residential or Nursing Care**

### **Choosing a care home and paying for your accommodation and care**

#### **Guidance for Service Users**

**April 2015**



The contents of this booklet apply only to placements provided or arranged by Leicester City Council. Other local authorities may have applied the Government's rules differently.

The purpose of this booklet is twofold:

- to advise you of your rights in relation to choosing a care home; and
- to explain how you (and where relevant a third party) will be charged for accommodation and care that is provided or arranged for you under the Care Act 2014 by Leicester City Council.

If there is any doubt about the content of this booklet please ask an allocated worker for assistance.

This booklet may help with the questions that you need to ask in order to make an informed choice.

If you need an interpreter in order to be able to understand this explanation, then please let the allocated worker know.

If you are unsure about the best options in your own circumstances you are advised to seek independent advice, from a solicitor, an advice agency, or independent financial adviser. A list of financial advisers is available at:

<http://directory.leicester.gov.uk/adult-social-care-directory/money-legal-matters/>

# Contents

## **Part 1 – Choosing a Care Home**

Introduction	5
If you already live in a Care Home	7
Third Party Agreement	7
Acting as your own third party	8

## **Part 2 – Paying for your accommodation and care**

Introduction	10
NHS funded nursing care	12
Basic principles of charging	12
Benefits payable to people in Care Homes	13
How the Council treats your Capital	15
Your Home and the Deferred Payments Scheme	17
How the Council treats your income	20
Income Support/Pension Credit for people with Property	23
Couples and temporary stays in a Care Home	23
Changes of circumstances	24
Further information	25

## **Appendices**

1) Accommodation Bands 26

2) Capital Limits, Tariff Income and Personal Needs

Allowance 27

3) Personal Budget sheet for Third Parties 28

**Glossary of terms 33**

**Useful telephone contact numbers 36**

# Part 1 – Choosing a Care Home

## Introduction

If you think that you may need residential or nursing care, you can make your own arrangements directly with a care home if you so wish.

Alternatively, you may be entitled to assistance from the Council.

In order for Leicester City Council to help you, the Council must assess that you need that type of care. Once you have been assessed as needing residential or nursing care, the Council will make the arrangements for you, if you want, and if the care and support you need is 'not otherwise available' to you. \*

If the Council makes the arrangements, the Council will enter into a contract with you and the Care Home, and agree to pay a 'Banded Charge' for the accommodation. The level of banded charges is contained in Appendix one (page 26). The level of banded charges normally changes each year.

The Council will charge you for the accommodation and care provided. Charging is dealt with in Part 2 of this booklet (page 10). The charge depends on your personal and financial circumstances. These charging rules are set down by the Government.

You are entitled to choose your care home accommodation and you have a right to enter more expensive accommodation than you might otherwise have been offered i.e. more expensive

than the Banded Accommodation charge detailed in Appendix one.

\* see page 32

If you have a preference for a particular care home, the Council will arrange the care in that accommodation provided that:

- the accommodation chosen meets your assessed needs;
- the accommodation is available;
- the care home provider is willing to provide the care subject to the Council's terms and conditions; and
- to do so would not cost the Council more than the Council would usually expect to pay for someone with the individual's assessed needs (Banded Accommodation charge).

If the Council agrees to arrange accommodation for you, but you choose somewhere that costs more than the banded accommodation charge, another person can agree to top up your contribution so that the Council does not agree to arrange for accommodation that costs more than the banded charge.

This person is known as a Third Party and will become a party to a contract with the Council, (see page seven). By law, a person cannot be their own third party when accommodation is arranged by the Council, except in some very limited circumstances.

These limited circumstances are explained later in this booklet.

If your preferred accommodation is not immediately available and you wish to wait for it to become available the Council will make alternative arrangements whilst you are on the waiting list for

your preferred placement.



At the present time legislation covers choice of accommodation in care homes in England and Wales only.

If your preferred accommodation is outside England and Wales you should seek legal advice and speak to your allocated worker at the earliest opportunity.

## **If you already live in a Care Home**

If you already live in a care home and have been funding yourself, you may find that the Council will not pay as much for your care as you have been paying.

If the Council agrees to help you financially, the Council will negotiate the fees with the care home.

Ultimately, if the care home does not agree with what the Council is prepared to pay for the type of care you need, you may have to move to a different care home.

However, the Council would want to avoid this situation as far as possible and the Council will explore all the options before suggesting that you move.

## **Third Party Agreement**

Where a third party is involved in the placement, the third party must sign a legal agreement prior to the Council agreeing to become a party to the contract between you and the care home (Third Party Agreement).

If the third party does not sign the third party agreement then the placement cannot go ahead.

The third party must be aware of the financial commitment of entering into a Third Party Agreement and should before signing the agreement ensure that he/she is able to keep up with the payments whilst you remain in the care home.

Attached to Appendix three is a personal budget sheet (page 29) that the third party should use to help them decide how much they can realistically afford to pay.

The third party does not need to give or show this to anyone at the Council if they do not wish to do so.

If the third party fails to pay his/her agreed contribution the Council will be entitled to terminate the agreement, which may mean that you have to move to a different care home.

## **Acting as your own third party**

If you are considering entering into a care home which charges more than the banded rate there are limited circumstances when you may be allowed to act as your own third party (i.e. the top-up is paid from your own finances). These circumstances are:

- For short stay contracts of less than eight weeks where you can prove that you can afford the top-up from your own resources.
- When your stay is deemed to be permanent and you own a property which is subject to a 12 week disregard.
- When you or your legal representative has signed the Deferred Payments Scheme and the local

authority deems the contract to be sustainable.

Further details are available from your allocated worker about the Deferred Payments Scheme and under what circumstances the Council would agree to you becoming your own third party.

Please note:

If accommodation is arranged under section 117 of the Mental Health Act 1983 the service user will not be required to undertake a means tested assessment and will not be charged for the accommodation.

However if a service user chooses to enter accommodation which is more expensive than the Council would normally be prepared to pay the service user may still be able to enter that accommodation provided that the service user or a third party is prepared to pay the top up directly to the home.

# Part two – Paying for your accommodation and care

## Introduction

The Council will charge you for your accommodation and the care you receive. This booklet will help you to understand how the charge is arrived at.

The charge depends on your own personal and financial circumstances. These charging rules are set down by the Government.

The charge that the Council makes for residential or nursing care follows these principles.

- If you can pay the full cost of your accommodation, this is what you will be charged.
- If you cannot pay the full cost of your accommodation, the Council will look at all your income and capital, then:
  - the Council will disregard certain types of income and certain amounts for your necessary expenses, (including a 'Personal Needs Allowance'); and then
  - the Council will charge you against the remainder of your income. (see page 21).

There are two main types of stay arranged by the Council:

- temporary stays; and
- long-term (permanent) stays.

The Council will treat your capital and income differently depending on what type of stay you are having. Your allocated worker will make it clear to you what category of care is being provided for you.

The Council will ask you for information about your financial circumstances and calculate what you will be required to pay for the accommodation.

The charge depends on your income and your capital: if you have capital over a certain amount, or sufficient income, you will be required to pay the full cost of your accommodation.

Once your charge has been calculated, you will need to sign a formal agreement between yourself, the Council and the care home you are going to. This agreement is called an Individual Placement Agreement.

Your income will probably include some social security benefits such as Retirement Pension, Income Support or Pension Credit, or Attendance Allowance.

This booklet summarises how these are affected by admission to residential or nursing care.

Social Security benefits are dealt with by the Department for Work and Pensions (formerly Department of Social Security) and not the Council.

Please note: If you are under 60 and part of a couple on a low income, you may become entitled to extra Income Support when you stay in residential care. If this is the case, the extra income

will be taken into account and the charge may appear to be higher than your current income.

It may take some time for this extra benefit to be paid by the Department for Work and Pensions but you should let the Council know if there is a problem with this being paid.

## **NHS funded nursing care**

If you move to a nursing home, your nursing care will be provided free of charge. This means that your nursing needs will be assessed by a nurse from the NHS. The cost of your assessed nursing needs should not be included in your contribution.

If you need to stay in a nursing home and the Council arranges for this type of accommodation, you will be liable to pay for your room, board and non-nursing care, in accordance with the guidance included in this booklet.

More information about NHS funded nursing care is available from the health authority that covers your area.

## **Basic principles of charging**

- The charge for residential care will be assessed against your income and capital – if you have a partner, his/her circumstances will not be taken into account.
- The Council will not normally pay more than a certain amount for the type of accommodation you need. The current banding rates are set out in Appendix one.



- If you have more than the Council's upper capital limit you will be required to pay the full cost of your accommodation. The capital limits are set out in Appendix two.
- You will always be left with at least a fixed amount for your personal needs (called your personal needs allowance). The current amount is shown in Appendix two.
- You may be left with more money to pay for other expenses.
- If you receive Disability Living Allowance (Mobility component) this will not be taken into account in working out your charge.
  - Nursing care will always be provided free of charge.
  - No charge will be made if your residential care is arranged under section 117 of the Mental Health Act 1983.
- No charge will normally be made for the first six weeks if your residential care is arranged under our Reablement or Interim care schemes.

## **Benefits payable to people in care homes**

The benefits listed overleaf may be affected if you have a stay in a care home.

### **Attendance Allowance/Disability Living Allowance (Care component)/Personal Independence Payment**

These benefits are normally payable only for the first four weeks of a stay in a care home after which time it will stop being paid.

Payment will stop earlier if you have had a previous stay within four weeks in public funded accommodation (e.g. a care home funded by a council or hospital).

Attendance Allowance/Disability Living Allowance (Care component) /Personal Independence Payment is however payable if

- you pay the full cost of your accommodation; or
- the full cost of your accommodation will be repaid after the sale of your property.

(In this case, there must be sufficient equity in your property to cover any deferred payment).

### **Income Support (for people under 60)**

If you are not already receiving Income Support, you may become entitled to it, while you are living in the care home.

If your Income Support includes the Severe Disability Premium, this will end if your Disability Living Allowance (Care component)/ Personal Independence Payment stops.

If you are a member of a couple and you or your partner get Income Support for the two of you, then the amount payable will change while you are in the care home.

You will need to claim any Income Support you are entitled to and the Council will tell you if this applies in your circumstances.

## **Pension Credit (for people aged 60 or over)**

You may be become entitled to Pension Credit while you are in the care home (this normally only applies to permanent stays).

If your Pension Credit includes the Severely Disabled appropriate amount, this will end if your Attendance Allowance stops.

You will need to claim any Pension Credit you are entitled to and the Council will tell you if this applies in your circumstances.

If you are a member of a couple and one of you gets Pension Credit for the two of you, the amount paid will change once you go into permanent residential care and you will each be paid as two individuals.

The DWP are responsible for your benefits and it is important that you inform them of any changes and address any benefit enquiries to them.

## **How the Council treats your capital**

This section looks at how the Council treats any capital or assets that you own.

The capital rules that the Council follows are different to the rules that the Department for Work and Pensions use when looking at your entitlement to means-tested benefits (e.g. Income Support or Pension Credit).

However, when the Council calculates your charge the Council will also calculate your entitlement to these benefits and apply the correct capital rules.

## **General rules on capital**

- Some of your capital is not taken into account by the Council.
- Jointly held capital will normally be treated as owned equally by all the joint owners.
- Capital that has a realisable value will be assessed at 90% of its value to allow for expenses of sale (e.g. property). Once the value is realised, the actual receipts from the sale will be taken into account.
- The Council will add up the value of all the capital that it actually takes into account (so when the Council tells you that you have capital of a certain amount, this will not include capital that is not taken into account).
- If the capital the Council takes into account is worth more than the upper capital limit (see Appendix two for current limits) you will have to pay the full cost for your accommodation (excluding any nursing care costs).
- The Council will treat you as having an income from any capital you own if the total value is between the upper and lower limits (see Appendix two for upper and lower limits).
- If you give capital away, or convert capital from a form that the Council takes into account into a form that the Council does not take into account, the Council may treat you as still possessing that capital.
- If you give capital away, the Council may charge the recipient for your accommodation charges.

## **Your Home and the Deferred Payments scheme**

The most valuable asset many people own is their home. The value of your home will not be taken into account:

- during a temporary stay; or
- while it remains occupied by your partner or a close relative who is over 60 or sick or disabled; or
- during the first 12 weeks of your permanent stay.

### **The Deferred Payment scheme**

If the Council takes the value of your home into account and its value means that your capital is more than the upper capital limit, you will be liable to pay the full cost of your accommodation.

You may wish to take advantage of the Deferred Payments scheme which will not require your property to be sold during your stay in residential care.

You should be able to continue to receive Attendance Allowance/DLA Care component/PIP if you decide to enter the Deferred Payments scheme.

You may also be able to obtain an income from your property (but seek advice).

If you wish to be your own third party and you want the Council to assist with your placement, you must agree to Deferred Payments and the financial arrangements must be sustainable.

The Council will not agree to contract with you on a

permanent basis until you have signed a Deferred Payments agreement and not until the Council has confirmed the contract is sustainable in the long term.

This process may take some time as it involves obtaining a valuation of your property and liaison with the land registry.

In these circumstances the Council will contract with you for a 12 week period which should give the Council sufficient time to confirm that the contract is sustainable or not.

The Council will contact you if they believe you are eligible for the Deferred Payments scheme.

The Deferred Payments scheme and the issues surrounding being your own third party may appear complicated but this is only due to the fact that it is a legal procedure. Financial Assessments staff will be able to answer any of your questions.

If you do not join the Deferred Payments scheme, the Council will expect you to pay the full cost for your accommodation on an ongoing basis. You may have to sell your home to do this.

### **How the Deferred Payments scheme works**

While you live in residential care, the Council will charge you on an ongoing basis against your income – the Council calls this a Temporary Charge.

The difference between the temporary charge and the full cost of your accommodation will be “deferred” until your property is sold.

Interest will be charged from day one of the Deferred Payment Agreement, usually week 13 of your stay.

### Example

Full cost of accommodation	£398 per week
Temporary charge	£100 per week
Deferred Payment	£298 per week

If you did not join the Deferred Payments scheme, you would have to pay the £398 per week from the end of your 12 week disregard period.

### **What happens once your home has been sold?**

You may decide to sell your property and take advantage of the Deferred Payment scheme while it is on the market.

Once you receive the proceeds of the sale, you will be required to pay the deferred debt immediately. It is possible that you will be left with capital that is over the upper capital limit (see the previous section on capital).

This means that you will be required to pay the full cost of your accommodation. In most cases the Council will end the contract with the care home and you will be expected to enter into a contract directly with the home.

This is because the Council cannot remain involved in the contract when care and support is 'otherwise available'. The care home may charge you a different rate than the rate previously paid by the local authority.

It you are planning to sell your home it would be advisable to find out what the home charges privately contracted residents at the time you are choosing your care home or when you are deciding whether to sell the property.

## How the Council treats your Income

This section explains how the Council treats your income when assessing the charge you will have to pay for your accommodation.

Some types of income you receive are not counted at all, and others are treated differently depending on whether your stay is temporary or permanent. See also the section on Couples and temporary stays.

<b>Type of Income</b>	<b>Temporary stay</b>	<b>Permanent stay</b>
Income Support	Counts in full	Counts in full
Pension Credit (Guarantee)	Counts in full	Counts in full
Pension Credit (Savings)	Counts in full or in part	Counts in full or in part
State Retirement Pension	Counts in full	Counts in full
Occupational / Private Pension	Counts in full	Counts in full**
Attendance Allowance*	Not counted	Counts in full
DLA Mobility Component	Not counted	Not counted



Widows / Widowers pension	Counts in full	Counts in full
War Disablement	£10 disregard	£10 disregard
War Widows Pension	£10 disregard	£10 disregard
Industrial Injuries Benefit	Counts in full	Counts in full
Local Authority - Tariff Income	Counts in full	Counts in full
Earnings	Not counted	Not Counted

- \* or Care Component of Disability Living Allowance or Personal Independence Payment.
- \*\* You may decide to give half of your occupational or private pension to your partner. However, you should seek advice before you do so.

## **Charging against your income**

If your capital is below the Upper Capital limit, your charge (or your temporary charge if you have joined the Deferred Payments scheme) is assessed against the income the Council takes into account.

During your stay, some of your circumstances may change and the Council will take these changes into account.

Where the Council knows that a change is due to occur, the Council will be able to anticipate it and the notification of your charge will take the change into account.

This might happen if you own a property and the Council has been disregarding its value during the first 12 weeks of your permanent stay, or if you have been receiving Attendance Allowance and the Council

Knows it will not be payable after you have been in a care home for more than four weeks.

If your income is less than the full cost of your accommodation, the charge will be based on the income the Council takes into account, minus an amount for your Personal Needs Allowance and minus a further amount for any other expenses the Council will allow.

Example (per week)

Full cost of accommodation (paid by the	£398.00
Personal Needs Allowance (the amount you have left to spend)	£24.90
The total income and benefits you receive	£150.00
Charge (what you must pay to the Council)	£125.10

If your income is more than the full cost of your accommodation, the charge will be the full cost of your accommodation.

## Example (per week)

Full cost of accommodation (paid by the Council to the care home)	£398.00
Personal Needs Allowance (the amount you have left to spend)	£24.90
The total income and benefits you receive	£500.00
Charge (what you must pay to the	£398.00

## **Income Support/Pension Credit for people with property**

If you wish to receive Income Support or Pension Credit while you are in permanent care, the Department for Work and Pensions will normally expect you to take steps to sell your property.

This should not be necessary during the first four weeks of your permanent stay because this period should be treated as 'Trial Period'.

For the next eight weeks of your permanent stay, your Income Support or Pension Credit may stop unless you take steps to sell your property. If this does happen, you should let the Council know so that the Council can take account of the change.

## **Couples and temporary stays in a care home**

The assessment process will only take into account the circumstances of the person for whom the accommodation is provided. This is quite straightforward for single people but is complicated for couples because of the way the benefits system works.

When the Council asks you about your income and savings, the Council also asks your partner for their details.

This helps the Council to work out your combined benefit entitlement and to make sure that the Council does not inadvertently take any of your partner's income into account.

It also helps make sure that your partner is left with enough money to maintain themselves while you have your temporary stay in the care home.

The assessment of charge will explain what additional benefits you and your partner are entitled to and, if necessary, what amount of your income has been disregarded to make sure your partner has enough money.

## **Changes of circumstances**

The Council will check your financial circumstances with you before you have a stay in a care home and every year after that if you remain in the care home on a permanent basis. If your financial circumstances change in between you must let the Council know.

You should also tell the Council if you do not receive a benefit that the Council believes that you should receive. This might happen during the first four weeks of your permanent stay.

## **For further information**

This booklet contains information about some very complex aspects of funding for your residential care.

The Council may be able to provide you with examples that reflect your actual position if you ask and provide the Council with details of your financial circumstances.

These examples will illustrate how your benefits and your charge might be affected by the various decisions you might take during your stay in residential or nursing care.

The Council is, however, unable to offer advice about the best option for funding your permanent care and it is particularly important that you seek independent legal and/or financial advice if you own your own home.

Please contact your allocated worker in the first instance.

## Appendix one

### Accommodation Payment Bands per week (April 2015)

Band 1	Band 2	Band 3	Band 4	Band 5	Nursing
£332	£351	£391	£398	£436	£425 *

\* The Care Home will receive an additional payment from the NHS for a service user's assessed nursing needs.

## Appendix two

### Local Authority Capital Limits

Upper limit:	£23,250
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Lower limit:	£14,250
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Tariff Income: £1.00 per week for each £250 (or part £250) above lower capital limit.

Personal Needs Allowance: £24.90 per week

### Typical scenarios

Property Owner	£
Retirement Pension	115.95
Attendance Allowance	82.30
Pension Credit	96.90
<b>Total Income</b>	<b>295.15</b>

Less personal needs	-24.90
Temporary charge	270.25

The difference between the temporary charge and the full cost of the accommodation will be recovered from the sale of the property after the deferred payment period ends.

Non-Property Owner	£
Retirement Pension	115.95
Pension Credit	35.25
<b>Total Income</b>	<b>151.20</b>

Less personal	-24.90
Charge	126.30

No attendance allowance is payable as the full cost will not be repaid to the Council.

## **Appendix three**

### **Admission to Residential/Nursing Care**

#### **Personal budget sheet for third party applicants**

Entering into a Third Party Agreement is a serious financial commitment.

The third party will be asked to sign a legally binding agreement before the placement is agreed and will have to maintain payments for the duration of the service users stay in the home.

Failure to maintain payments will result in the service user having to move to less expensive accommodation.

It is therefore very important that the third party ensures that he/she is able to keep up with any payments that they agree to make.

To help the third party to decide how much they can realistically afford to pay the third party may wish to complete the following income and expenses checklist.

This form is purely for the third party's own use to help him/her to make sure that he/she only commits to something that he/she can afford.

It does not need to be given or shown to anyone at the Council.



<b>Step One</b>	<b>Weekly income (£)</b>
Wages/ Salaries	
Retirement Pension	
Pension Credit	
Job Seekers Allowance	
Other state benefits	
Superannuation /Occupational Pension/ Annuity	
Child Benefit	
Incapacity Benefit / ESA	
Other disability benefits	
Maintenance	
Housekeeping – (e.g. from non- dependent adults living	
Interest from savings	
Other regular income	
<b>Total weekly Income - Box A</b>	

<b>Step Two</b>	<b>Weekly outgoings (£)</b>
Mortgage	
Rent	
Mortgage endowment	
Council Tax	
Water Rates	
Ground rent/ service charges	
Building/ contents insurance	
Home maintenance (e.g. decorating/ DIY/ repairs etc)	
Life insurance	
Gas	
Electricity / other fuel	
Social costs/ entertaining	
Food & household items	
Telephone/mobile phone	
TV rental/license	
Maintenance/ child support payments	
Car loan	
Other loan or HP agreements	
Mail order repayments	
Credit card repayments	
Student support/ Child's pocket money	

Travelling expenses (car maintenance, insurance & MOT/petrol/bus, taxi or train fares etc)	
School meals/ meals at work	
Clothing	
Birthday/ Christmas	
Prescriptions & health costs	
Childminding	
Holidays	
Fines or other agreed arrears repayments	
Contingencies	
Regular savings or pension contributions	
Other expenses (1)	
Other expenses (2)	
Total Weekly Outgoings - Box B	

<b>Step Three</b>	<b>£</b>
Weekly income (Box A)	
Less weekly outgoings (Box B)	
Income potentially available towards third party sponsorship	

Please note: this form is designed to help a third party to assess his/her ability to pay a third party sponsorship for care fees. Please remember to allow for any known future changes such as retirement from work or a child moving to further education that may affect the third party's financial circumstances.

The third party may wish to consider committing only a proportion of the excess income identified as available towards care fees in order to allow himself/herself capacity to cope with any additional unplanned expenditure.

# **Glossary of Terms**

## **Assessment of Need**

If a person wishes to obtain assistance from the Council in securing residential care or nursing home accommodation, the Council must first of all be satisfied that the person's care needs are best met by residential or nursing care, and a Social Worker will assess your needs.

If the Council is not satisfied that you need residential or nursing care, it will not be able to provide assistance. An Assessment of Need will also establish what 'Band of accommodation' (overleaf) is required.

## **Is the care and support 'otherwise available'?**

The Council can only arrange for accommodation if the care and support you need is not otherwise available.

'Otherwise available' means that the person has the funds to pay for the necessary care and support and that either he or someone acting for him is able to enter into a contract with the home.

If not, the Council will make the arrangements for your accommodation for you.

## **Band of Accommodation**

People need to have residential or nursing care for a variety of different reasons and homes provide different levels of care (Band of Accommodation), each of which costs a

different amount. In Leicester the Council arranges for care in one of five residential care home bands or one nursing care band.

The accommodation costs the Council a fixed amount depending on the band (the Banded Charge) and the Council will not normally pay more for accommodation than the 'Banded accommodation charge'.

The amount the Council will pay is intended to cover your essential needs. If a person chooses to live in a home that charges more than the Council would normally pay, a third party contribution (see below) may be required. In some cases an individual may almost fit one of the standard bands but require some additional services as identified in the Assessment of Need; the Council will allow for these additional services on top of the Banded charge.

### **Personal Needs Allowance**

This is the amount of money that the Government considers a person in residential or nursing care needs for his or her personal expenses that is not provided for by the home under the contract they have with the Council. It is not intended to be used to enable a person to be his or her own third party (see overleaf).

### **Third Party Contribution**

If the Council agrees to arrange accommodation

for somebody, but that person chooses somewhere that costs more than the Banded Accommodation charge, another person can agree to top up the resident's contribution so that the Council does not agree to arrange for accommodation that costs more than the banded charge.

This person is known as a Third Party and will become a party to the contract. By law, a person cannot be their own third party when accommodation is arranged by the Council, except in some very limited circumstances.

### **Extra Services**

The Banded Charge is intended to cover the basic care that you need. You may decide to purchase extra services for yourself in which case you will need to make separate arrangements with the care home direct. The Council will not become involved with these arrangements.

### **Temporary Stay**

This is where the resident is expected to return to live in the community within 52 weeks. (There may be more than one stay in any one year).

### **Permanent or Long-Term Stay**

This is where the resident is not expected to return to live in the Community within 52 weeks.

### **Individual Placement Agreement**

An agreement signed by the care home, the

Council and the service user (or service user's representative) detailing the terms and conditions by which the placement has been made.