

Finding care home accommodation

About this factsheet

In this factsheet we consider a number of issues related to finding suitable care home accommodation including types of homes, how to identify the right home for you and funding of care home placements.

Details are provided of other Age UK factsheets and information guides where these may be useful.

Age UK produces a number of factsheets on adult social care.

The ones focussing on residential care funding may be useful, particularly Age UK's Factsheet 10, *Paying for residential care*. Age UK's Factsheet 41, *Social care assessment, eligibility and care planning*, may also be of use.

The information in this factsheet is correct for the period April 2015 – March 2016. Capital limits and other figures are subject to review again in April 2016 but rules and figures sometimes change during the year.

This factsheet describes the situation in England. There are differences in the rules for funding care in a care home in Northern Ireland, Scotland and Wales. Readers in these nations should contact their respective Age UK offices for information specific to where they live – see section 17 for details.

For details of how to order other Age UK factsheets and information materials mentioned inside go to section 17.

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1 Recent developments

The **Care Act 2014** came into force on 1st April 2015 along with a range of new supporting regulations and a single set of new statutory guidance, which, taken together, describe how the Act should be applied in practice. The aim of the change is to simplify and modernise the system, which had become too complex and to introduce a new charging system.

A significant new regulation in relation to this factsheet is the *Care and Support (Charging and Assessment of Resources) Regulations 2014*, which will be called **the charging regulations** in this text. The other main source for this factsheet is the *Care and Support Statutory Guidance 2014*, which will be referred to as **the statutory guidance** in the text. When other relevant regulations are mentioned they will be cited in full in the text.

This means that the existing system of adult social care of laws, regulations and guidance, developed over a period of 65 years, has generally been superseded and is now **no longer applicable**; except in a few cases, for example regarding the complaints regulations. An example of the general revocation is the statutory guidance entitled the *Charging for residential accommodation guide, known as CRAG*. This is the guidance on which parts of this factsheet was previously based. It will now be based on the documents mentioned above, which are also listed with web links in the **Appendix** in section 15.

The *Care Act 2014* will actually come into force in **two stages**, in April 2015 and April 2016.

Some of the key changes being introduced in 2015 are:

- The promotion of individual wellbeing as an overarching principle within all the activities of a local authority including: assessment, eligibility, prevention, means testing and care and support planning.
- New national eligibility criterion for both the adult requesting services and their carer(s) leading to rights to services. The previous four local eligibility levels have now become one, set at approximately the previous 'substantial' level. This is the first time carers will have an absolute right to have their assessed, eligible, support needs met. Further information about this can be found in Age UK's Factsheet 41, *Social care assessment, eligibility and care planning*.

- A person-centred and outcomes-focussed approach to meeting needs meaning that local authorities must consider how to meet each person's specific needs rather than simply considering what service they will fit into.
- The whole system is now administered via personal budgets.
- New 'market shaping' duties to ensure appropriate local service provision.

There are many other changes from April 2015, which are described in our range of updated factsheets on adult social care.

The **April 2016 changes** relate to the implementation of new rules on paying for care based on the **Dilnot** care funding recommendations made in 2013 and the subsequent government response. These include:

- A lifetime **care cost cap** (£72,000 in 2016) above which the State meets the cost of eligible social care needs; it will be reviewed every five years. This will be excluding a new **daily living cost charge** for residential care, which will be £230 per week in 2016.
- The introduction of **care accounts** which will track personal expenditure towards meeting assessed, eligible, care needs, towards the new cap; the accounts will be adjusted annually in line with the rise in average earning. Some local authorities may start to introduce them ahead of April 2016.
- The introduction of **independent personal budgets**, where contribution to the care account is monitored without the means test.
- An increased **upper capital** limit from £23,250 to £27,000 (for non-residential care and support or residential care where the value of the resident's home is disregarded) or £118,000 (for residential care where the value of the resident's home is not disregarded).
- An increased **tariff income / lower capital limit** from £14,250 to £17,000.

Further details of the 2016 proposed funding-related changes are contained in the government consultation on 'draft regulations and guidance to implement the cap on care costs and policy proposals for a new appeals system for care and support' which ended on 30 March 2015.

The transitional system

In this factsheet we will describe the transitional system that is now in existence between April 2015 and March 2016. We will amend it next year in light of the new planned charging rules mentioned above. Government advice on how local authorities should manage the transition over the next couple of years is set down in chapter 23 of the statutory guidance. Here, it states that the new national eligibility criteria is intended to allow for the same level of access to care and support to be maintained in adult social care in the vast majority of circumstances and cases.

2 Using this factsheet

This factsheet refers to several different authorities and organisations. Their contact details should be in the telephone directory or on their websites. Local libraries or the town hall may have further information.

Try the following:

- **Social services department:** you can find these under the name of your local authority (the council), county council or metropolitan or London borough, or a unitary authority in some areas.
- **Housing department:** under the name of your metropolitan or London borough, or unitary authority; or if you live in a county council area, under the name of your local district council.
- **Department for Work and Pensions (DWP):** under 'social security' or 'Benefits Agency'.
- **Local Citizens Advice Bureau and Age UK organisations:** under those names.

In this factsheet references to the '**local authority**' or '**council**' will refer to the adult social services department of the local authority or council. The relevant social services department may be called the 'community' department, 'adult social services' or 'older persons' department or team. We will use the term 'local authority' in this factsheet to describe this type of service. However, generally, the term 'local authority' can also describe: a county council in England, a district council for an area in England for which there is no county council, a London borough council, or the Common Council of the City of London.

3 Making a decision to go into a care home

Before making any final decision about moving into a care home, it is important to establish whether this is the best way of meeting your needs. The majority of older people do not require permanent care in a care home and it may be that your needs could be met in another way. For example, you may be able to have your home adapted to meet your needs or have a package of care and support on a daily basis.

Although you may be anxious about moving into a care home and you might be experiencing feelings of loss, the move should give you the opportunity to focus more fully on your own wellbeing and social relationships, whilst removing some of the need to independently manage your physical and health needs.

4 Types of care home and other accommodation

The term '**care home**' covers any establishment providing accommodation and round-the-clock personal care. Those that also provide nursing care are known as **nursing homes**.

They must be registered as 'service providers' with the **Care Quality Commission (CQC)**. The CQC is responsible for the inspection and registration of care homes and nursing homes, and the maintenance of good service standards across the industry.

Note: On 1st April 2015, the CQC's existing *Essential Standards of Quality and Care* were replaced by new 'Fundamental Standards', and related new Regulations¹. It has also published *Guidance for providers on meeting the regulations*², which will be cited as **Guidance for providers** in this text. These have a number of new elements such as a focus on person-centred care, a new duty of candour and a fit and proper person requirement. This will be further discussed in section 14.

Each of the two basic types of care home can also provide various specialisms/services, one of which could be dementia care.

A care home should not provide nursing care if it isn't registered for that purpose. Some homes may have some beds registered as providing accommodation and personal care only, and other beds registered for nursing care as well.

A care home with or without nursing care that provides **dementia care** services may need a higher than usual staff ratio to do this effectively. The staff should be trained to provide high quality care with this particular type of resident and be committed to promoting their dignity and wellbeing; and towards empowering them to have as much choice and control as possible within their living environment.

4.1 Ownership of care homes

Some care homes are run by the social services department of the local authority. However, these days they are generally run by the private or voluntary sectors.

Private care homes are run for profit by private organisations and individual proprietors. Voluntary sector homes are non-profit making and run by registered charities, religious organisations and housing associations; sometimes for particular groups of people.

¹ *Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3) (as amended)* and the *Care Quality Commission (Registration) Regulations 2009 (Part 4) (as amended)*

²

http://www.cqc.org.uk/sites/default/files/20150210_guidance_for_providers_on_meeting_the_regulations_final_01.pdf

Both types of home **can choose** to whom they offer accommodation.

Note: Each care home should produce a **statement of purpose** setting out its aims and objectives, the range of facilities and services it offers to its residents, and the terms and conditions on which it does so in its contract of occupancy. This should be made available to prospective residents along with copies of the home's most recent CQC inspection reports.

4.2 Sheltered or warden-assisted housing

If you are not able to remain in your own home then sheltered (warden assisted) or 'extra care' sheltered housing may offer an alternative to entering a care home. Sheltered housing may be available through your local authority or as a private arrangement. Often a person will sell their property, move into sheltered accommodation and use the excess funds that have been released to pay any on-going costs such as the monthly service charge.

This type of accommodation is generally designed for those not needing the level of support offered in care homes, for example those who can manage personal care tasks independently. The key benefit here is independence in your own property with assistance on-site when required. This could also be combined with a package of personal care from a home care agency or personal assistant.

Further information on sheltered housing can be found in Age UK's Factsheet 2, *Buying retirement housing*, Age UK's Factsheet 63, *Finding private rented accommodation* and Age UK's Factsheet 64, *Retirement (sheltered) housing*.

5 Social services assessment and eligibility

Under the *Carer Act 2014*, your local authority has a **duty to assess** your needs if you may have needs for care and support. An assessment of this kind can help you to identify your needs, whether they might best be met by entering a care home and, if so, what type of care home is required; you also have a right to information and advice, for example about funding care.

Your right to an assessment is not linked to your financial circumstances. The assessor must look with you (and your carer if required) at the difficulties you are having managing in your daily life, the things you want to do or achieve, and the impact of any problems on your **wellbeing**. Section 1(2) of the *Care Act 2014* sets a number of elements that make up your wellbeing. These include:

- personal dignity (including treatment with respect);
- physical and mental health and emotional well-being;
- protection from abuse and neglect;
- control over day-to-day life;
- participation in work, education, training or recreation;
- social and economic well-being;
- domestic, family and personal relationships;
- suitability of living accommodation; and
- contribution to society.

Your local authority needs assessment will result in a decision about whether your needs are '**eligible needs**' within the national social care eligibility criteria and recommendations about how to meet your identified needs. Eligibility requires a '**significant impact**' on your wellbeing due to being unable to achieve a number of 'Outcomes' that are listed in the new *Care and Support (Eligibility Criteria) Regulations 2014*. These are:

- managing and maintaining nutrition;
- maintaining personal hygiene;
- managing toilet needs;
- being appropriately clothed;
- being able to make use of the adult's home safely;
- maintaining a habitable home environment;
- developing and maintaining family or other personal relationships;
- accessing and engaging in work, training, education or volunteering;

- making use of necessary facilities or services in the local community including public transport, and recreational facilities or services; and
- carrying out any caring responsibilities the adult has for a child.

The Regulations go on to clarify that ‘unable to’ can mean being able to achieve the listed outcome but with excessive difficulty or risk, for example taking a great deal of time over a straightforward task.

Your local authority has a duty to meet your assessed, eligible, needs³.

If you will be seeking local authority **funding assistance** with the cost of your care, a needs assessment is essential because the local authority can’t financially assist you unless it agrees that you need to move into a care home. Once it has established that you require care in a care home the local authority will carry out a **test** to determine whether you are eligible for financial assistance with the cost of your care.

It is advisable to request an assessment of your needs even if you will be funding your own care as this can help identify what type of care home will be suitable for you and your funding options. It is also useful to have an indication of how the local authority may view your needs if you will need financial assistance from it later, once your funds have been used up. Even if you will be self-funding, the local authority may have a legal duty to arrange suitable care if it is not otherwise available to you, for example if you do not have the capacity to make your own arrangements and there is no one who can assist you.

Note: From April 2016, a person’s weekly financial contribution towards meeting their assessed eligible care needs, up to the level of their personal budget, will start accruing in their a **care account** towards their **care cost cap**. As a result, it is advisable for all those with potentially eligible needs to have a needs assessment prior to April 2016 to establish their eligibility.

³ *R v Gloucestershire CC ex parte Mahfood* (1997) 1 CCLR 7

The new statutory guidance allows local authorities to carry out care account assessments prior to April 2016 to avoid a potential 'spike' at that time. For more information on local authority assessment procedures see Age UK's Factsheet 41, *Social care assessment, eligibility and care management*. Age UK's Factsheet 10, *Paying for permanent residential care*, explains the main rules about obtaining financial assistance from a local authority.

The local authority should publish information and provide advice about how to ask for an assessment, how it will be carried out and funding issues (see section 5 for further information). Age UK provides further information in Factsheet 41, *Social care assessment, eligibility and care planning*.

6 How to find a care home

You may already know which home you would like to enter, perhaps through personal experience or a recommendation from a friend. If you do not already have a home in mind and are not sure of how to find one, the following suggestions may help:

- the Care Quality Commission (CQC) provides details of registered care homes in each area. You can see copies of their recent inspection reports on its website;
- social workers at your local authority social services department or the hospital may also be able to provide a list of local homes. You can raise any questions you have about going into a home with them;
- some charities and placement agencies help people to find homes, especially people who wish to find a place quickly, or who live some distance away;
- the Yellow Pages or the telephone directory will contain addresses of homes.

There are an increasing number of **independent websites** aimed at assisting people to find care homes and other care services, for example *Find me good care*, which can be found at - www.findmegoodcare.co.uk. This is run by the Social Care Institute for Excellence (SCIE), a quasi-governmental body. The charity WHICH? also has a care home finder tool on its website at www.which.co.uk. It is always advisable to check the 'About us' section on these kinds of sites to find out who they may be tied to or owned by in terms of the actual independence of their information.

Once you have identified possible homes, it is advisable to **visit the home** in advance to meet the staff and residents and find out more about the care that will be provided, wherever possible.

You may have difficulty finding a vacancy in a home that is suitable for your needs. If so, ask the local authority to carry out an assessment of your needs if this has not already been done. If the local authority assesses you as needing a particular type of care home, it has a responsibility to arrange the placement if you can't manage this and there is no one to assist you, even if you will have to meet the full cost of your care.

6.1 Questions to ask when choosing a care home

Choosing the right care home is important. It will, after all, become your home. Moving can be difficult and any disruption will be increased if you subsequently have to move on to another care home.

It can be tempting to accept the first vacancy that arises, particularly if there is a shortage of care home places in your area. It is worth taking time to find the right home. If possible, consider and compare more than one home.

Try to visit the home to have a look round and talk to the staff and person in charge. Some homes may invite you to spend the day at the home, or perhaps to visit to share a meal – ask if this is possible.

Action: If you have difficulties travelling to visit homes, contact your local Age UK or Citizens Advice Bureau to see if they have details of any transport schemes in your area.

Talk to the existing residents and see what they are doing. Are they involved in activities and the running of the home? Is there a homely, warm and busy environment? Do staff members seem interested and caring?

The care home must produce a **brochure or service users' guide** setting out its aims and objectives, the range of facilities and services offered to residents, and the terms and conditions of residents' contracts of occupancy. Make sure that the reality matches the brochure and check that you know about all the charges, including those for any extra services or unforeseen events such as short absences.

Using your needs assessment if possible, identify all the **personal, practical or nursing assistance** that will be needed, together with any important **equipment**, and ask the home if it will be able to meet these needs. Aim to collect the fullest possible information on a prospective home and then make a decision.

Many people considering moving to a care home are concerned at the possibility of having to **share a room** with someone else. The CQC Essential Standards (now been superseded) stated that residents should only have to share rooms where they have made a positive choice to do so, at Outcome 10L 'Safety and Suitability of premises'. This point is not explicitly set out in the CQC's new Fundamental Standards. However, Regulation 10 requires all service users to be treated with **dignity and respect**. This includes, amongst other elements, ensuring an individual's **privacy** and supporting their **autonomy and independence**.

Everyone will have different views about what makes a **'good' care home** and each person's needs will be different. Here are some questions that you may wish to consider:

- Does the home encourage residents to do as much as possible themselves and to make choices about as many aspects of their daily lives as they can?
- Can residents bring personal possessions – pictures, plants, furniture?
- Can the home meet the resident's communication needs – for example, through a language other than English, non-verbal method such as sign language or large print?

- Do residents choose what and when they will eat? How are special diets catered for? Can residents eat privately with guests from time to time? Can residents prepare any food and drinks for themselves?
- Are residents free to see visitors when and where they choose? Can visitors stay overnight at the home, if they have travelled long distances?
- Can residents use a telephone in privacy, for incoming and outgoing calls?
- Do residents rise and go to bed when they choose? If not, do you consider the arrangements to be reasonable?
- What provisions does the home make for taking residents out – on outings, to the shops, to the theatre, place of worship or entertainment?
- What physical activities are available for residents?
- Is there more than one living room, so that there is a quiet room as well as one with a television?
- Are there books, newspapers available for residents? Do residents visit the library, or does a mobile library come?
- Do the managers of the home ask about how the resident would like to handle money or medicines?
- How does the home ensure valuable items are kept secure?
- Do residents have their own GPs?
- How will the home let relatives or friends know if a resident is taken ill?
- Is there a residents' committee?
- Does the home encourage residents to say how they feel about living there, and provide written information to residents and/or their families about how to discuss a problem or make a complaint?
- Are toilets available in all parts of the home, fully equipped with handrails and other helpful equipment?
- Can wheelchairs go everywhere within the home, and easily in and out? Is there a lift?

- If the resident needs help bathing, does the home have suitable facilities? Who will help with bathing, and can the resident choose how often they have a bath or shower?
- Do you have to pay extra for toiletries?
- Are there areas for smoking and non-smoking?
- What happens if residents require more or less care than they currently have? Might they have to leave?
- What arrangements are made for funerals and for payment if the resident dies?
- Can residents help in the ordinary activities of the home – cleaning, cooking, gardening?
- Are residents allowed to bring their pets with them to the home?
- What arrangements are there if the resident needs to access services such as an optician or a dentist?

Age UK produces a *Care home checklist* (ACIL5) with a range of questions that can be asked when you visit a care home and space to make notes. To get a copy see our contact details in section 17.

Trial periods in care homes

If you are a prospective care home resident, you can visit various homes to see if you like them. You may also be able to arrange to move in on a trial basis before you or your representatives make a final decision about whether to stay there. The local authority may also arrange a trial period for you if it will be helping to arrange this care. This gives you the chance to see whether moving to a care home is the right choice for you.

Any steps to sell or terminate the tenancy on your existing accommodation should be deferred until it is agreed that your move will be permanent. If you are a homeowner and your home is included in the means test its value should not be taken into account in the local authority means test until 12 weeks after it is confirmed that your care home placement is permanent.

7 Financial considerations when choosing a care home

Most people living in care homes pay something towards the cost of their care. This is either in full from income or capital, or contributing towards the costs according to nationally set means-test rules.

7.1 If you will be paying for your care yourself

Some people will have adequate resources to pay for their own care in full. If you have more than **£23,250** in capital, you will be expected to pay the full cost of your accommodation and personal care in a home. This is the **capital** limit in England in 2015/16. You may also be expected to pay in full if you have a high **income**, regardless of how much capital you have, for example if your weekly income is higher than the weekly care home fees.

These rules are set out in the new **statutory guidance** and **charging regulations** created in support of the *Care Act 2014*. As outlined in section 1, there will be major changes to the charging system taking place in April 2016.

You can **choose** which care home you move into if you will be making private arrangements. However, it is up to the home whether or not it offers you a place. If you subsequently require local authority financial assistance and your chosen accommodation costs more than the local authority is usually willing to pay for that type of care, a third party might have to make up the shortfall via a **top-up**. This only applies if the authority is able to demonstrate that your assessed care needs can be met at its 'usual cost'. If not, the local authority should agree to meet any extra amount necessary to do so.

If you are paying for your own care and you are 65 or over you may be eligible for Attendance Allowance. Age UK's Factsheet 10, *Paying for permanent residential care* contains further information about this benefit.

Make sure the contract with the home clearly sets out the fee breakdown. Here are some questions you might ask about fees:

- Is a deposit required? Is this returnable? What is it for?
- What is the weekly fee and what does it cover?

- How is any NHS contribution towards registered nursing costs accounted for?
- What services are charged for as 'extras'? How much do they cost?
- Should the NHS provide any of these? The NHS should provide continence products for all residents meeting its criteria for needing them. Services such as chiropody and physiotherapy may also be arranged by the NHS if you meet the local criteria. If you need specialist care from a chiropodist, ensure it is included in your care plan.
- How much notice will the home give if it has to raise the fees?
- Who is required to sign the contract? (If relatives are asked to sign, they should seek legal advice about what they are committing themselves to.)
- What fees do you have to pay if you are away for a short time, for example on holiday or in hospital?
- How much notice do you need to give the home in order to move?
- How much notice would you be entitled to if the home closed?

You will be expected to pay for your own **personal items**, such as toiletries, clothes, etc. To reflect this, if the Government is using all of your income to pay for the placement, you must be left with a weekly **Personal Expenses Allowance** of £24.40.

Even if you are going to be self-funding you can ask that the local authority carry out an **assessment** of your needs. If your capital is likely to fall below the limit for funding fairly quickly, it is reassuring to know that the local authority agrees that you need the type of care being provided with regard to requesting help with funding your care in the future.

Note: From April 2016, it will be necessary for all self-funders to have a local authority needs assessment to confirm that they have eligible needs and to trigger their **care account**, which will accrue towards the new **care cost cap**. See 'Recent developments' section for further details. Many local authorities are assessing people prior to this date to avoid excessive demand.

If you will be paying for your care in full but are **unable to make your own arrangements** for a place in a care home, and there is no one who is willing or able to do this on your behalf, then the local authority has a power (a choice) to arrange suitable care for you if you request this. In practice it is hard to see how a local authority would not act to assist in a specific situation given its wide legal duties. It has a duty to ensure that eligible needs are met if a person lacks mental capacity and has no one to assist, which would mean arranging the placement without the request requirement. It cannot charge for arranging the placement in both these types of situation. The duty to meet assessed eligible needs is set out in section 18 of the Care Act 2014.

Care homes often charge self-funding residents more than the local authority pays for the residents it supports. This has been called '**cross-subsidy**'. In the past this fact has been difficult to clearly detect due to the complexities of the system. However, once care accounts commence in April 2016, there should be greater **transparency** as the local authority will only recognise what it sets out as a weekly personal budget amount as accruing towards the care cost cap in a person's care account. It will then be a straightforward process to see whether this is the same as the actual weekly fee that is being charged.

The Care Quality Commission's new *Guidance for providers*⁴ requires care homes to provide a **statement** to the service user, or to a person acting on their behalf:

specifying the **terms and conditions** in respect of the services to be provided to the service user, including as to the amount and method of payment of **fees**; and

including, where applicable, the form of **contract** for the provision of services by the service provider.

The statement must be in writing and as far as possible provided prior to the commencement of the care home placement.

In the case of care homes that provide nursing (nursing homes), the information about fees should relate to the total fees payable before account is taken of any nursing contribution paid by the NHS.

⁴ Based on Regulation 19 of the *Care Quality Commission (Registration) Regulations 2006* (Part 4)

Note: It is worth establishing at the outset what the care home's requirements are on the death of a resident. Some homes may continue to charge for a short period after death or until the room is cleared. According to a 2005 Office of Fair Trading report⁵, they should not continue to charge for more than one month following the death of a resident.

7.2 Moving from self-funding to local authority funding

Once your capital is below the capital limit (£23,250 in 2015/16) you may become eligible for local authority financial support towards the cost of your residential care. Your income is also taken into account in this calculation.

You can apply to your local authority social services department for assistance. It must first assess your care needs and agree that you need care in a care home before it will consider helping you financially.

There may be a delay between you asking for a care assessment and it being carried out. Ask the local authority if there are delays in your area. If so, it is advisable to approach your authority **a few months before** your capital falls below the limit.

A potential or new care home resident should not be penalised financially because of **delay** on the local authority's part. Section 5 of the *Care Act 2014* statutory guidance confirms that your local authority should **act promptly** to meet your needs. The lack of a needs assessment or a financial assessment must not be a barrier to appropriate action and it is not obligatory to complete them before taking action.

For details about obtaining a local authority needs assessment see Age UK's Factsheet 41, *Social care assessment, eligibility and care planning*. You can also contact your local authority to obtain this information.

⁵ *Care homes for older people in the UK – a market study*

http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.offt.gov.uk/shared_offt/reports/consumer_protection/oft780.pdf

If the care home where you live is in a **different local authority** area to where you lived previously and you have been funding your own care, the local authority which covers the area where the home is situated will probably be responsible for helping you. However, if you are paying the some of the full fees but the local authority where you previously lived arranged the home for you, and still has a contract with the home, then it is still responsible for meeting your needs.

You should generally be able to remain in your current care home provided that it is suitable to meet your assessed needs. The local authority will enter into a contract with the home. However, if the care home where you live costs more than the local authority usually pays for the sort of care you need, a third party – such as a relative, friend or charity – may have to meet the difference in order that you can stay in the home via a **top-up** arrangement.

In some circumstances the local authority may have to **vary its usual cost** limit and meet the extra cost to be able to meet the requirement to provide suitable accommodation. It must be able to be flexible to deal with all possible situations.

Age UK's Factsheet 10, *Paying for permanent residential care*, explains how the local authority will calculate the amount you should contribute towards the cost of your care.

Whether or not you qualify for means-tested help with funding your care, you may still be entitled to NHS services. For further information, see section 5 and Age UK's Factsheet 44, *NHS services*.

7.3 **When the local authority makes the arrangement**

Once your local authority has **assessed** your care needs and identified that you need care in a care home according to the national **eligibility** criteria, it has a duty to arrange suitable care for you.

If you have sufficient capital or income to fund your own care but are unable to arrange care yourself, and do not have anyone who is willing to do it for you, the local authority should make arrangements for you. You will still have to pay the full cost yourself.

It will also assist you if it is providing funding assistance and should place you at its usual cost level as set out in the **personal budget** it provides with your care and support plan following your needs assessment.

If the local authority enters into a **contract** for your care with the care home, it will be responsible for paying the fees and collecting your contribution, the level of which is assessed using national rules. Alternatively, you and your local authority can each pay your respective contributions directly to the home if you, your authority and the home all agree to this arrangement.

If the local authority makes the arrangements for you to move into a home, it should make all reasonable efforts to offer you a **choice of placements**. This could be in one of its own homes, or in a private or voluntary home. Some local authorities have a list of 'preferred providers' they usually recommend.

If you do not like the home suggested, or you have a particular home in mind, you can ask the local authority to arrange a place that you choose. You also have **choice of accommodation rights** in certain circumstances when the local authority is assisting with the arrangement. This is confirmed in section 30 of the *Care Act 2014*, its supporting regulations⁶ and the statutory guidance⁷.

The local authority must arrange a place there, provided:

- it is suitable for your assessed needs;
- a place is available;
- the home is willing to enter into a contract with the local authority on its terms and conditions;
- it does not cost more than the authority would usually expect to pay for a place for someone with your assessed needs.

After an assessment, if the local authority intends to meet your needs, it must now set out the weekly cost in your personal budget as part of your care management process.

⁶ *The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014*

⁷ Annex A entitled 'Choice of accommodation and additional payments'

If your preferred accommodation costs more than the authority would usually pay, it still must arrange a place there if you can find someone else (a '**third party top-up**') to pay the difference. You are not allowed to pay the difference yourself, except where the local authority is paying your fee under a Deferred Payment Agreement; or if you are eligible for local authority support, you have just entered the care home, and the value of your former home is being disregarded for the first 12 weeks under the national charging regulations.

If your local authority is unable to make an arrangement for a place in a suitable care home in your locality at its usual cost then it should agree to pay any **extra amount** necessary to secure suitable care and should not try to pass the extra costs on to you or a third party. Section 8.37 of the statutory guidance requires that a person has a **genuine local choice** at their allotted personal budget level and that 'an additional payment must always be optional and never as a result of commissioning failures leading to a lack of choice'.

However, if the local authority can show that your needs can be met in a less expensive home than your present one it can request a third party top-up payment.

If the local authority does not agree to pay the higher fee, it might suggest that you move to a less expensive home. Before doing so, however, it must show that less expensive homes are available and should also carry out an assessment of your needs. If you are moving from another home, any psychological, cultural or social needs (which might require remaining in the present home) and the likely risks involved in moving a settled resident should be taken into account in the assessment. This must also meet with the *Care Act 2014* requirement to maximise individual wellbeing as described in section 6.1 above – for example 'suitability of living accommodation'.

In *Complaint no. 97/A/3218 against Merton LBC, 23 October 1999*, the Local Government Ombudsman stressed that since local authorities have **discretion** to exceed the usual amount they are willing to contribute to the costs of residential care, they must have regard to the particular circumstances of each case. If the prospective resident has needs that can only be met in a home that is more expensive than the local authority is usually prepared to pay, the local authority should meet the extra cost. These considerations may include issues such as: geographical location, health, religious and cultural requirements.

An individual's **human rights** under the *Human Rights Act 1998* may also be relevant in these types of cases. For example, there is the Article 8 right to respect for private, family and home life that a local authority must uphold to carry out its duties legally; the Article 3 prohibition on inhuman or degrading treatment may also be relevant in these types of cases.

The requirement of a top-up may also be challenged where the local authority imposes **arbitrary cost ceilings**. Section 11 of the statutory guidance, entitled 'Personal budgets', states that:

Local authorities should not have arbitrary ceilings to personal budgets that result in people being forced to accept to move into care homes against their will.

Annex A of the *Care Act 2014* statutory guidance states that:

In all cases the local authority must have regard to **the actual cost** of good quality care in deciding the personal budget to ensure that the amount is one that reflects local market conditions. This should also reflect other factors such as the person's circumstances and the availability of provision. In addition, the local authority should not set arbitrary amounts or ceilings for particular types of accommodation that do not reflect a fair cost of care.

With regard to the **sufficiency** of the personal budget amount, section 11 of the statutory guidance contains the following requirement:

The amount that the local authority calculates as the personal budget must be sufficient to meet the person's needs which the local authority is required to meet under section 18 or 20(1), or decides to meet under section 19(1) or (2) or 20(6) and must also take into account the **reasonable preferences** to meet needs as detailed in the care and support plan, or support plan.

Section 11 goes on to state that:

The [Care] Act states the personal budget must be an amount that is the cost to the local authority of meeting the person's needs.

In establishing the 'cost to the local authority', consideration should therefore be given to local market intelligence and costs of local quality provision to ensure that the personal budget reflects local market conditions and that appropriate care that meets needs can be obtained

for the amount specified in the budget. To further aid the **transparency principle**, these cost assumptions should be shared with the person so they are aware of how their personal budget was established.

This new approach, under the *Care Act 2014*, appears to have replaced the previous one where the local authority had to set out a 'usual cost' figure for each type of care home at the start of each financial year. However, in practice, the annual process of obtaining these figures must still be required to enable your local authority to plan adequate service provision and to facilitate genuine choice.

7.4 When the NHS makes the arrangement

NHS-funded continuing healthcare

The NHS is responsible for meeting the full cost of care in a care home for you if your primary need for being there is health-based. This is called NHS continuing healthcare (NHS CHC) and is often described as '**fully-funded care**'. It usually relates to people who have complex, severe and/or unpredictable medical conditions requiring skilled health-based care beyond that which social care usually has a duty or capacity to provide.

The Department of Health has issued National Framework Guidance and assessment tools to support the assessment for eligibility for NHS continuing healthcare and the decision-making of the professionals involved. A revised Framework was published in November 2012⁸.

Note: It is important to ensure that you have been properly assessed for NHS CHC if you may be eligible for it early on in the process.

Your possible eligibility for NHS CHC should be considered before the local authority carries out an assessment for means tested social care assistance if it is likely that you are eligible.

⁸See link to this document: <https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care>

It is necessary for you, or those representing you, to understand how the National Framework is designed in terms of the assessments for this 'fully funded care', for example regarding the weighting given to the various 'domains' within it, and how these relate to the final eligibility decision. Also, in terms of the fast-track right available in certain circumstances.

Your local NHS may arrange a place for you in a care home that provides nursing care, known as a nursing home, if your assessed needs meet its criteria for NHS CHC. You may also receive NHS CHC in a residential care home or elsewhere, for example in your own home. You will not be expected to pay towards the cost of your care provided under NHS CHC provisions in any setting.

You will continue to receive benefits such as State Pension and Pension Credit if you are NHS CHC funded in a care home. However, where you are in a nursing home and treated as a hospital in-patient, all payments of Attendance Allowance, Disability Living Allowance (DLA) and Personal Independence Payment (PIP) will cease after a period of 28 days (or less where you have been in hospital or a care home within the previous 29 days) of being in the nursing home. This includes any mobility component payment of DLA or PIP. You may continue to get the mobility component of DLA or PIP if you are placed in a residential care home as you will not be treated as a hospital in-patient despite being NHS CHC funded

Unlike residents being funded by the local authority, those receiving fully-funded NHS CHC in care homes that provide nursing care do not have the right to choose where this care is to be provided. However, those carrying out the assessment have a duty to accommodate your choices as far as possible.

There is now a right to request a Personal Health Budget if you are entitled to NHS CHC. This is similar to direct payments within the social care context.

For further details on how to check whether you have been properly assessed for NHS funded continuing care see Age UK's Factsheet 20, *NHS continuing healthcare and NHS-funded nursing care*.

Hospital discharge and residential care

If you are a hospital in-patient, before being discharged you should be assessed by both the NHS and social services to establish whether either of them ought to arrange any on-going care once you leave hospital. This may include care in a care home. This is part of your safe discharge planning process.

You have the right to refuse to be discharged to a care home. If you do, the health and social care agencies should consider whether your needs can be met in another way. However, you do not have the right to remain in hospital indefinitely.

If you are being placed in a care home by the local authority and your preferred home has no vacancy, and is unlikely to have one in the near future, you may have to be discharged to another home until a place becomes available. Any interim arrangement should still meet your assessed needs.

Note: Section 3 of the *Care Act 2014* requires joint working and integration between health and social care where this will be beneficial to a service user; Schedule 3 of the Act focusses on reimbursement requirements from a local authority to the local NHS hospital where there are delayed discharges to reduce unnecessary delay.

See Age UK's Factsheet 37, *Hospital discharge arrangements* for further information. Age UK's Factsheet 44, *NHS services*, also contains relevant information.

7.5 NHS-funded nursing care in nursing homes

The NHS is responsible for meeting the cost of nursing care provided to residents in care homes with nursing support, known as nursing homes. This is limited to the health-related work directly carried out by an **on-site registered nurse** or in supervising other carers. Local authority funded and self-funding residents who need to move into nursing homes should have a comprehensive assessment to identify any nursing needs, including their possible eligibility for NHS-funded continuing healthcare (see section 5).

In October 2007, a single rate for the provision of NHS-funded nursing care was introduced, replacing the previous three-band system for NHS-funded registered nursing care. All individuals moving into a nursing home since that date receive a single rate payment if they have nursing needs. For nursing home residents, the present rate is £109.79 per week (March 2015).

Section 8 sets out some other services provided by the NHS for those who pay some or all of the cost of their care in a home.

This is explained in more detail in Age UK's Factsheet 20, *NHS continuing healthcare and NHS-funded nursing care*.

7.6 Respite care and rehabilitation

You may need to go for a short stay in a care home to give yourself or your carers, a break from the usual routine. This is known as **respite care**.

The process of arranging and funding respite care is largely similar to that for permanent care but there are certain differences. Chapter 8, 'Temporary and short-term residents in care homes'; and Annex F, 'Temporary and short-term residents in care homes', cover this area in the statutory guidance.

If the local authority arranges a temporary or short-term stay for you in a care home, it can ask you to contribute towards the cost in one of **two ways**: it can either charge you as if you are living in a care home or as if you are living elsewhere, for example at home. This charging discretion is set down in section 8 and Annex F of the statutory guidance. It is also covered in Regulation 8 in the charging regulations, where it states that:

A local authority may, if it thinks fit, financially assess and charge a short-term resident as if they are receiving care and support, or support under section 18, 19 or 20 of the Act other than the provision of accommodation in a care home.

This is similar to the wording in Annex F of the new statutory guidance:

A local authority can choose whether or not to charge a person where it is arranging to meet needs. In the case of a short-term resident in a care home, the local authority has discretion to assess and charge as if the person were having needs met other than by the provision of accommodation in a care home.

The previous specific requirement to apply to permanent residential care charging rules after 8 weeks does not appear in the new guidance supporting the *Care Act 2014*. However, the **definition** of short-term is confirmed as being for 8 weeks within Part 1 of the charging regulations.

If you are a temporary resident the plan is for you to **return home**, so the local authority must take account of your situation in this context.

For periods of respite in a care home registered to provide nursing care, the NHS will fund the cost of care provided by a registered nurse employed by the care home. In some circumstances, respite health care may be available from the NHS, in which case you will not be asked to pay towards this.

Another form of short-term residential care is rehabilitation, usually called NHS intermediate care or social care reablement. This is intended to help people regain their confidence and abilities after leaving hospital or to avoid a hospital admission. Intermediate care is usually limited to a maximum of six weeks and is free-of-charge from the NHS; if provided by a local authority, it is free for the first six weeks. For further information on rehabilitation, see Age UK Factsheet 76, *Intermediate care and reablement*.

8 Other services from the NHS

Whether you are paying the full cost of your care yourself or receive financial help from your local authority, there are many services you may be able to receive from the NHS.

Your rights to a GP and NHS dentistry are not affected by living in a care home. You will still be entitled to free prescriptions and a free NHS sight test if you are aged 60 or over.

In addition, if you live in a care home and your capital is less than the upper limit, you may be entitled to help from the NHS towards the costs of glasses and NHS dentistry under the NHS Low Income Scheme. (For those not in a care home the NHS Low Income Scheme capital limit is £16,000.) Your entitlement also depends on the amount of income you receive, as well as any capital you have. You can make a claim on Form HC1(SC) if you are living in a care home and the local authority helps with the fees. You will be eligible for NHS continence supplies if you meet the local eligibility criteria for this service.

In addition, chiropody, physiotherapy, occupational therapy services and specialist equipment may be available from the local social services or NHS. Further information about these services is in Age UK's Factsheet 44, *NHS services*.

Action: Help with health costs information can be accessed on the NHS Choices website via the following link:
<http://www.nhs.uk/NHSEngland/Healthcosts/Pages/help-with-health-costs.aspx>

9 The local authority 'market shaping' duty

Your local authority must be able to show that there are suitable care homes in the area with vacancies at the price it has decided is appropriate to meet your needs – set out in your personal budget. Your local authorities should not request a top-up payment from either you or your family simply because it has failed to agree fees that reflect the actual cost of care provision in their area.

Section 5 of the *Care Act 2014* requires that each local authority must promote the **efficient and effective** operation of a local market in services for meeting care and support needs with a view to ensuring that there is a **variety of high quality** service providers to choose from who provide a range of services. It must also provide sufficient information to enable each potential service user to make an informed decision about how to meet their needs.

Section 5(3) states that local authorities must '...have regard to the need to ensure that **sufficient services** are available for meeting the needs for care and support of adults in its area and the needs for support of carers in its area'. Section 5(2) contains a number of related points including the 'need to ensure that [the local authority] is aware of **current and likely future demand** for such services and to consider how providers might meet that demand'; also 'the importance of ensuring the sustainability of the market'.

Given the above requirements, if your local authority is unable to show a choice of residential accommodation at its designated usual cost level, it could be open to challenge for setting arbitrary or unrealistically low cost ceilings which stifle local supply.

Care homes should not independently make arrangements for extra payments from a third party without involving the local authority, which would generally remain liable to meet the full cost of care should the third party fail to keep up the payments. If this does happen you should contact the social services department.

Age UK's Factsheet 10, *Paying for permanent residential care*, explains the local authority charging rules in more detail.

10 **The need for clarity: contracts, services and fees**

Prospective care home residents who are purchasing their care privately should be provided with a contract. This should be clear and comprehensive, and you should ask to see a copy in advance of signing any agreement. As well as standard clauses, it should set out what care will be provided to meet your particular needs. You should ask for a statement from the home in writing about what care and services you will receive, and about what will be required from you in return.

Care homes are required to provide residents who are being assisted by the local authority with a **statement of terms and conditions**. The contract for your care will be between the local authority and the home. You can request a copy of the contract too. In this way, you and the home will be clear about what is expected. You might like to seek advice from the Citizens Advice Bureau or a solicitor before signing a contract.

The *National minimum standards for care homes for older people* (now superseded), required contracts and statements of terms and conditions to describe: the room to be occupied; care and services covered by the fee; the fee payable and by when; any additional services not covered by the fees; rights and obligations of the service user and the home; and the terms and conditions of occupancy, including period of notice. The present *Care Quality Commission (Registration) Regulations 2009 (Part 4)* contains the following statement:

Fees etc

19.—(1) Where a service user will be responsible for paying the costs of their care or treatment (either in full or partially), the registered person must provide a statement to the service user, or to a person acting on the service user's behalf –

- (a) specifying the terms and conditions in respect of the services to be provided to the service user, including as to the amount and method of payment of fees; and
- (b) including, where applicable, the form of contract for the provision of services by the service provider.

(2) The statement referred to in paragraph (1) must be –

- (a) in writing; and
- (b) as far as reasonably practicable, provided prior to the commencement of the services to which the statement relates.

These regulations are now supported by the Care Quality Commission's new '*Fundamental Standards*' of good quality service provision.

The Office of Fair Trading has produced guidance on potentially unfair terms and conditions in agreements made between care homes and residents. Among the main areas of concern are lack of clarity about residents' financial obligations including: what fees are due and what these cover; use of opaque, legalistic, language and overly long contracts; and the use of terms excluding care homes' liability for failures relating to care of residents and their possessions. Copies of the *Guidance on unfair terms in care home contracts* can be viewed via the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284437/oft635.pdf

11 When someone lacks the mental capacity

If a decision to enter a care home has to be made on behalf of someone who lacks the mental capacity to make that decision, it must adhere to the **'best interests'** standards set down in the *Mental Capacity Act 2005* and its related Code of Practice. A decision such as this could be made by someone who has a Lasting Power of Attorney or possibly by professionals, for example on a hospital ward.

In these circumstances, actions taken by the receiving care home and, if they're involved, the local authority or NHS must also comply with government guidance called the **Deprivation of Liberty Safeguards**. These are intended to protect the human rights of all those who are deprived of their liberty in a care home and who are unable to express their views or challenge the decision if they or their representatives disagree with the placement decision.

In certain circumstances, where an individual has no one else available to advocate on their behalf, it is necessary to have an **Independent Mental Capacity Advocate** involved in the decision to place them in a care home. This has some similarities to the new Independent Advocate right under the *Care Act 2014*, which is discussed in section 12 below.

Further information about these subjects can be obtained from Age UK's Factsheet 22, *Arranging for someone to make decisions about your finances or welfare* and Age UK's Factsheet 62, *Deprivation of Liberty Safeguards*.

12 The information, advice and advocacy duty

Section 4 of the *Care Act 2014* states that each local authority establish and maintain a service for providing people in its area with information and advice relating to care and support for adults and support for carers. The service **must provide** information and advice on the following areas:

- the local care and support system and how it operates
- the choice of types of care and support, and the choice of providers available to those who are in the authority's area how to access the care and support that is available how to access independent financial advice on matters relevant to the meeting of needs for care and support, and

- how to raise concerns about the safety or well-being of an adult who has needs for care and support.
- With regard to this duty, the Act advises local authorities to identify local people who would benefit from the service to ensure that its provision enables them:
 - to identify matters that are or might be relevant to their personal financial position in this context
 - to make plans for meeting needs for care and support that might arise, and
 - to understand the different ways in which they may access ‘independent financial advice’ on matters relevant to the meeting of needs for care and support.

The information and advice provided or arranged by the local authority must be accessible and appropriate.

“Independent financial advice” means financial advice provided by a person who is independent of the local authority in question.

This duty overlaps with other *Care Act 2014* duties, for example relating to prevention of needs for care and support.

The independent advocacy duty

The *Care Act 2014* sets up a new independent advocacy scheme for people who struggle to understand or make decisions about their care and have no ‘appropriate person’ to help them engage in the process. This builds on the scheme that already exists (under the Mental Capacity Act 2005) for people who have a significant mental impairment.

Under the Act some older people are entitled to the support of an independent advocate at key stages in the process. This right applies to people who have ‘substantial difficulty’ in doing any of these:

- Understanding relevant information (about social care and health issues)
- Retaining that information
- Using or weighing up the information
- Communicating their views, wishes or feelings.

If you care for an older person in this category, then she or he will probably not be entitled to an advocate, because you will be seen as an 'appropriate person', so an advocate won't be necessary. Sometimes this changes if there is a dispute between you and the local authority over what's best for the person you care for. If the local authority thinks that what you want for that person isn't in their best interests, then they can appoint an independent advocate. The advocate's job is to try to find out what the person you care for wants and feels, and help identify what is in his or her best interests.

13 When care needs change

Many people are able to remain living in one home for a long time. However, sometimes care needs can change and the home in which someone has been living may no longer be able to provide appropriate care. Sometimes the resident's GP or the manager of the home may suggest that the resident needs to move to a more suitable home; sometimes relatives or the resident may feel different care is needed.

On occasion, the suggestion may come from the CQC, particularly if the resident lives in a care home that is not registered to provide nursing care but is reaching the point of needing that type of care. The home may risk breaking the conditions of its registration if it tries to provide you with that care.

In these situations, some homes have in the past been willing to explore with the registration authorities the possibility of registering one place in a care home for nursing care; this would involve the home being able and willing to meet the registration requirements for homes providing nursing care for that one place.

If you are in this situation, you might want to ask the home if this is a possibility but do bear in mind that, eventually, you may still need to move if your care needs increase in the future.

In other cases, moving to a different, perhaps more specialised home, will mean you receive more appropriate care. If there are difficulties, contact your local authority social services department to see if it can help identify a home.

Ask the current home if it will agree the resident can remain there in the meantime. It is important to check the contract to see whether the home requires any period of notice before a move takes place.

Residents in care homes registered to provide nursing care should have an annual re-assessment to confirm that their NHS-funded nursing care is still required. This should also identify residents whose needs have changed and who should be assessed against eligibility criteria for NHS-funded continuing healthcare or other continuing NHS health care services, such as palliative care.

14 The Care Quality Commission

The Care Quality Commission (CQC) is the independent regulator of health care and adult social care services in England. It also protects the interests of people whose rights are restricted under the *Mental Health Act 1983* (amended in 2007). It is responsible for maintaining standards in health and adult social care in England. It was set up under the *Health and Social Care Act 2008* (the 2008 Act).

All care homes are service providers required to be registered with the CQC. In April 2015, the existing '*Essential Standards*' guidance for service providers was replaced by new '***Fundamental Standards***' regulations. These include a requirement that care must be appropriate and reflect your needs and preferences, and that you must be treated with dignity and respect, amongst other elements. New requirements include that people employed must be of good character, have the necessary qualifications, skills and experience, and be able to perform the work for which they are employed (fit and proper persons requirement); and that registered service providers must be open and transparent with service users about their care and treatment (the duty of candour).

The CQC has a four-tier care home **rating system**, which rates services as: outstanding, good, requires improvement or inadequate. A team of specialist local adult social care inspectors inspect services against five key questions – is the service safe, caring, effective, responsive to a person's needs, and well-led – before giving a rating, which is available to the public.

The guidance, which is used by the inspectors when they visit residential or community care services, sets out the five questions (called Key Lines of Enquiry) and a list of what care should look like for each of the ratings. Here are some of the key elements inspectors look out for:

1. What makes a service outstanding?

Good-rated services need to demonstrate a number of additional characteristics in order to be rated outstanding.

Safety

Staff must be described as having a 'high level' of understanding of a service user's need to be kept safe and must demonstrate exceptional skills and ability to recognise when a person feels unsafe.

Effective

Services use innovative and creative ways of training and developing staff, demonstrate excellent links with health services and a strong emphasis on the importance of eating and drinking well.

Caring

Services have a strong, visible person-centred culture, service users value their relationships with the staff team and feel that they 'often go the extra mile' for them, and staff are highly motivated and inspired to provide care that is kind and compassionate.

Responsive

Staff have outstanding skills and an excellent understanding of a person's social and cultural needs, the service is flexible and responsive to a person's needs and people's care and support is planned proactively with them.

Well-led

The service has a track record of being an excellent role model, has a strong emphasis on continually striving to improve and its vision and values ensure that service users are at the heart of their work.

2. What makes a good service?

The characteristics of a 'good service' form the basis for the whole system and this rating therefore has the most detailed description. Information on the other three ratings builds on this.

Is it safe?

- People are protected from bullying, harassment, avoidable harm and abuse.
- The service has an open culture on reporting and learning from mistakes, prompt responses to safeguarding concerns and thorough investigations.
- There is good management of medication and accurate record keeping.

Is it caring?

- Service users are consistently positive about the caring attitude of staff.
- People receive care from staff who know and understand their history, likes and goals.
- End-of-life care is compassionate and supportive, with people being supported to make decisions about their preferences.

Is it responsive?

- People receive person-centred care and are involved in identifying their needs and how these should be met.
- A service protects people from the risk of social isolation and loneliness.
- People have a choice about who provides their personal care.

Is it effective?

- People's needs are consistently met by staff who have the right skills, qualifications and knowledge.
- The service keeps up-to-date with new research, guidance and developments in the sector.
- People are always asked to give their consent their care, treatment and support.

Is it well-led?

- People, their family and friends are regularly involved with the service in a meaningful way.
- Staff have the confidence to question practice and report concerns.
- The service has a clear vision and set of values that include honesty, respect and safety.

3. Why will a service be rated as 'requiring improvement'?

A service that requires improvement may have some features of a good service, but there will be a lack of consistency in the caring approach of staff, the effectiveness of the service, how well it is managed and led, and how well people are involved in relevant decisions about their care and support. Regulations may or may not have been met and there will be an inconsistent approach that means that, at times, people's health, safety or wellbeing is placed at risk.

Inspectors may identify, for example, a lack of time for people to be able to participate in creating their own support plans and a delay in referrals to other health and social care professionals. The service may not always provide the right number of staff, with the right skills and competencies, to keep people safe, and people at risk of poor nutrition and dehydration will not always be sufficiently monitored.

4. What makes a service inadequate?

A service that is rated inadequate may have some 'safe' and 'effective' practice but in general people will not be safe and some regulations will not have been met. It will have "widespread and significant shortfalls" across the five key lines of enquiry and the overall standard of care, support and outcomes that people experience.

For example, inspectors are likely to find standardised care records that do not reflect individualised or person-centred care, service users will say that they do feel safe and some will say that they have been harmed or abused, and staff will not have been adequately trained to meet the needs of people using the service.

The following link takes you to the general page for care homes:

<http://www.cqc.org.uk/content/care-homes>

After someone has entered a care home, it is important to know what to do if any problems arise. The home should provide information in writing to all residents about **how to make a complaint**, and you should ask for this.

Make sure you tell someone about your problem, as only in this way will you be able to begin to sort it out. If possible, any problems should be discussed informally with the staff of the home in the first instance. You should not be penalised for raising any concerns that you have.

Some homes have a residents' committee, or a 'suggestion box' through which concerns can be raised.

You can contact the CQC to express your concerns, as described in section 9 above, if you have an issue concerning the standard of care being provided in the home.

Further advice and support may be available from the Citizens Advice Bureau, local Age UK or Independent Age – see section 16.

You should have a written contract setting out your rights and responsibilities. This may make it easier to resolve disagreements. If you do not have a written contract your relationship with the home is likely to constitute an 'implied contract'. It may be necessary to take legal advice to establish what your rights under an implied contract are. See section 7.6 for further information on contracts.

As a customer of the home, you also have consumer rights. In the past care home residents have often been overlooked as consumers but this is now starting to change.

14.1 **When the local authority arranges or provides the care**

If a problem arises with a local authority-funded placement, you can still raise the issue with the home and with CQC. You will have access to the complaints procedure of the local authority, because the local authority has arranged the care. You can also use the local authority's complaints procedure if you are living in a residential home that the local authority owns. Ultimately, you may be able to take your complaint to the Local Government Ombudsman.

It is important to make sure that someone knows how you feel, so that the problem can be dealt with as soon as possible.

For more details about making a complaint to the local authority and contacting the Ombudsman, see Age UK's Factsheet 41, *Social care assessment, eligibility and care planning*. See also Age UK's Factsheet 59, *How to resolve problems and make a complaint about social care*.

14.2 **When the NHS makes the arrangement**

If your care is being funded by the NHS and a problem arises with the care being provided in a home, you can use the NHS complaints procedure. The NHS is also responsible for any free nursing care it arranges and possibly for fully funded NHS continuing healthcare. The complaints procedure can be used in this context. You can also consider complaining to the Health Service Ombudsman.

Further details about the NHS complaints procedure and the Health Service Ombudsman are contained in Age UK's Factsheet 66, *Resolving problems and making a complaint about NHS care*.

14.3 Self-funders' rights

Those who have independently arranged and funded their care home placement have the right to make a complaint about the care home to the Local Government Ombudsman.

15 Appendix

There are four main sources for the new law and rules on adult social care on which this factsheet is based:

1/ The Care Act 2014

<http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

Part 1 of the Act is the main source for this factsheet as it replaces over 60 years of adult social care legislation.

2/ Care and Support Statutory Guidance, issued under the Care Act 2014:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf

This large document supports the *Care Act 2014* and the regulations listed below. A local authority must have regard to its relevant sections when administering the charging system. There is significant overlap with some of the regulations for example regarding section 8 'Charging and financial assessment' and the Annexes at the end of the document, particularly B and C on the treatment of capital and income.

3/ The final negative regulations under part 1 of the Care Act 2014:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf

This document contains many new regulations including the *Care and Support (Charging and Assessment of Resources) Regulations 2014*, which closely resembles the previous CRAG document that has now been superseded.

4/ The final affirmative regulations under part 1 of the Care Act 2014:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366048/43738_2902999_Regs_Affirmative_Accessible.pdf

A significant regulation within this document is the *Care and Support (Eligibility Criteria) Regulations 2014*.

Note: The terms 'negative' and 'affirmative' refer to the regulations' status prior to finally coming into force in April 2015.

16 Useful organisations

Association of Charity Officers (The)

Over 200 member funds including some that run care homes for professional, commercial and occupational groups. If you need financial help from a charity fund, contact the Association's helpline, giving details of your family background and career pattern. The Association can signpost enquirers to funds that might be able to help them.

2nd Floor, Acorn House, 314 – 320, Grays Inn Road, London, WC1X 8DP

Tel: 020 7255 4480

Website: www.aco.uk.net

Association of Independent Care Advisers (AICA)

An association with a code of practice whose agency members offer advice about staying at home, or about short- or long-term stays in care homes, and help identify the most suitable care homes and care providers. Individual members may charge for this service. Details of the member agencies are available free from AICA.

Tel: 01483 203066

Website: www.aica.org.uk

Care Quality Commission

The independent regulator of adult health and social care services in England, whether provided by the NHS, local authorities, private companies or voluntary organisations. It also protects the rights of people detained under the Mental Health Act.

Care Quality Commission, National Correspondence, Citygate, Gallowgate, Newcastle upon Tyne, NE1 4PA
Telephone: 03000 616 161 (free call)
Email: enquiries@cqc.org.uk
Website: www.cqc.org.uk

Cinnamon Trust (The)

A charity that helps elderly and terminally ill people with their pet's care, eg by providing help with dog-walking, or short-term fostering of pets, when people go into hospital. If advance notice is given, the Trust can accept animals on their owner's death and provide lifelong care. To help people going into a care home the Trust also maintains a register of homes and sheltered housing schemes throughout the UK that accept residents with pets. For a copy of the 'Pet Friendly Homes Register' write to the charity enclosing a SAE, stating the county or counties you are interested in. The charity makes no charge for its services and relies on donations to fund its work.

10 Market Square, Hayle, Cornwall TR27 4HE
Tel: 01736 757 900
Website: www.cinnamon.org.uk

Elderly Accommodation Counsel

A registered charity that maintains a nationwide database of all forms of specialist accommodation for older people – sheltered housing for sale and rent, care homes providing personal or personal and nursing care. It also gives guidance, advice and detailed information to help enquirers choose and pay for the accommodation most suited to their needs.

3rd Floor, 89 Albert Embankment, London SE1 7TP
Tel: 020 7820 1343
Email: info@firstopadvice.org.uk
Website: www.housingcare.org

Equality Advisory and Support Service

This new advice service replaced the helpline run by the Equality and Human Rights Commission in October 2012.

FREEPOST Equality Advisory Support Service FPN4431

Tel: 0808 800 0082

Textphone: 0808 800 0084

Website: www.equalityadvisoryservice.com

Independent Age

A charity that provides free and impartial advice on home care, care homes, NHS services, housing and other issues for older people, their families and professionals on community care.

6 Avonmore Road, London, W14 8RL

Tel: 0845 262 1863 (lo-call rate)

Email: charity@independentage.org

Website: www.independentage.org

Local Government Ombudsman

The Local Government Ombudsman investigates complaints of injustice arising from maladministration by local authorities. It also takes referrals from self-funding care service users.

PO Box 4771, Coventry CV4 0EH

Tel: 0300 061 0614

Website: www.lgo.org.uk

National Association for Providers of Activities for Older People (NAPA)

A membership organisation providing information and advice, support and education for those responsible for the provision of activities for older people in establishments that provide services or care. NAPA holds regular themed 'Sharing Days', has a newsletter and organises appropriate training opportunities.

1st Floor, Unit 1, Fairview Industrial Estate, Raans Road, Amersham,
HP6 6JY

Tel: 020 7078 9375

Email: info@napa-activities.co.uk

Website: www.napa-activities.co.uk

Parliamentary and Health Service Ombudsman

The Parliamentary and Health Service Ombudsman is the second and final point of contact if you remain dissatisfied after the local NHS organisation has investigated your NHS complaint.

Millbank Tower, Millbank, London, SW1P 4QP

Tel: 0345 015 4033

Textphone: 0300 061 4298

Website: www.ombudsman.org.uk

Relatives and Residents Association (The)

The Relatives and Residents Association gives advice and help to older people in homes, their relatives and friends. The Association is committed to improving the standards of care homes through the active involvement of relatives. Its aim is to promote a common understanding between relatives, residents, home providers and staff. Local groups exist throughout the country; contact the Relatives and Residents Association for more details.

24 The Ivories, 6-18 Northampton Street, London N1 2HY

Tel: 020 7359 8148

Advice line: 020 7359 8136

Website: www.relres.org

17 Further information from Age UK

Age UK Information Materials

Age UK publishes a large number of free Information Guides and Factsheets on a range of subjects including money and benefits, health, social care, consumer issues, end of life, legal, employment and equality issues.

Whether you need information for yourself, a relative or a client our information guides will help you find the answers you are looking for and useful organisations who may be able to help. You can order as many copies of guides as you need and organisations can place bulk orders.

Our factsheets provide detailed information if you are an adviser or you have a specific problem.

Age UK Advice

Visit the Age UK website, www.ageuk.org.uk, or call Age UK Advice free on 0800 169 65 65 if you would like:

- further information about our full range of information products
- to order copies of any of our information materials
- to request information in large print and audio
- expert advice if you cannot find the information you need in this factsheet
- contact details for your nearest local Age UK

Age UK

Age UK is the new force combining Age Concern and Help the Aged. We provide advice and information for people in later life through our publications, online or by calling Age UK Advice.

Age UK Advice: 0800 169 65 65

Website: www.ageuk.org.uk

In Wales, contact:

Age Cymru: 0800 022 3444

Website: www.agecymru.org.uk

In Scotland, contact Age Scotland

by calling Silver Line Scotland: 0800 470 8090

(This line is provided jointly by Silver Line Scotland and Age Scotland.)

Website: www.agescotland.org.uk

In Northern Ireland, contact:

Age NI: 0808 808 7575

Website: www.ageni.org.uk

Support our work

Age UK is the largest provider of services to older people in the UK after the NHS. We make a difference to the lives of thousands of older people through local resources such as our befriending schemes, day centres and lunch clubs; by distributing free information materials; and taking calls at Age UK Advice on 0800 169 65 65.

If you would like to support our work by making a donation please call Supporter Services on 0800 169 87 87 (8.30 am–5.30 pm) or visit www.ageuk.org.uk/donate

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