

# Walsall Choice Guidance

## 1. Who this agreement applies to Accommodation based care

- 1.1. This agreement applies to people who are eligible for adult social care funding to meet their eligible needs. This agreement supports Walsall Council Adult Social Care staff to offer choice to individuals in how their care and support are to be delivered as well as service users and their family to enable them to have choice.
- 1.2. Where an individual has been assessed as lacking the mental capacity to express choice of care and support package, we must follow the Mental Capacity Act Code of Practice around 'Best Interests' decision making. This means consulting with relevant people for their views around the decision and referring for an Independent Mental Capacity Act Advocate (IMCA) if required.
- 1.3. Where a person lacks mental capacity to make decisions around their choice of care and support but has nominated a Lasting Power of Attorney (LPOA) for health and welfare, we will involve them in the decision-making process, and they will be the 'decision maker'.

## 2. Promoting Independence

- 2.1 The Care Act states that we need to consider promoting independence and reducing the needs a person has at every opportunity. The Act emphasises:
- 2.2 The importance of preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist. At every interaction with a person, a local authority should consider whether or how the person's needs could be reduced or other needs could be delayed from arising. Effective interventions at the right time can stop needs from escalating, and help people maintain their independence for longer.
- 2.3 Wherever possible we will aim to minimise the need for commissioned services by offering alternative options that would meet needs.

## 3. Care Act Guidance

- 3.1. In addition to promoting independence, the Wellbeing Principle also states that we are required to consider an individual's views, wishes, feelings and beliefs:  
  
Considering the person's views and wishes is critical to a person-centred system. Local authorities must not disregard the importance of the person's choice and control in how they choose to live their life and care delivery preference. Where particular views, feelings or beliefs (including religious beliefs) impact on the choices that a person may wish to make about their care, these should be taken into account. This is especially important where a person has expressed views in the past but no longer has capacity to make decisions themselves.
- 3.2. People are able to express preferences about how their care is delivered. The broker will take the person's preference into account when commissioning care. We will not always be able to meet all preferences but we will ensure that a person's assessed care needs are met.
- 3.3. Where necessary Walsall Council can organise independent advocacy to support the person to understand their options, choices and the consequences of their decisions related to their care choices.

## 4. Ensuring the safety of Walsall Council staff

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- 4.1. We have a duty of care to Walsall Council staff to keep their working environment safe, protect them from abusive behaviour and to maintain an environment where everyone is treated with respect and civility.
- 4.2. There are occasions whereby a person who requires support is intentionally obstructed from receiving the care and support package, from their representative, relative or carer's unacceptable or unreasonable behaviour. In these circumstances it may be necessary for Walsall Council to review services and look at alternative provisions for meeting any eligible support needs.

## 5. The agreement

### **Choice around care and support services within best value**

#### **Best Value means most appropriately costed care and support package**

- 5.1 We will always take people's preferences into account and aim to maximise people's independence.
- 5.2 Choices that individuals are offered about how their eligible care needs are met must only include the 'best value' options where Walsall Council funding or self-funding is being considered.
- 5.3 The funding made available to support a person will be determined by the most cost-effective care package, and the prospect of successfully increasing independence. This will be based on the local care market, the availability of providers, and cost.
- 5.4 Walsall Council will fund no more than the best value care package that meets eligible needs unless there are exceptional circumstances. For these exceptional circumstances to apply we would expect there to be clear evidence that the more expensive option is likely to have greater impact in reducing dependence on publicly funded care. There should also be a clear timetable for reviewing the care package and for considering reducing the cost of the care package.

### **Choice of accommodation to meet care and support needs**

- 5.5 Individuals receiving adult social care funding are able to choose their accommodation as long as the following conditions are met:
  - a) **It will meet their needs:**  
If residential or nursing care has been identified as the only appropriate way of meeting a person's needs, then the individual may not choose another type of specified accommodation. They may still express a preference for a particular care home to live in, which will be taken into account but may not be offered depending on the other criteria described here.
  - b) **It will cost no more than Walsall Council would usually pay Best Value**  
In the first instance the best value placement within the specified accommodation, available at the time, is identified and offered. If a person's needs could be met in more than one type of specified accommodation, then the cost of the best value type of accommodation will be offered. Should a person choose to commit to a more expensive provision than the identified best value option then a top-up payment will need to be arranged. This may be a deferred payment or an agreed amount above the best value agreed with a family member or nominated person who agrees to pay this additional amount.
  - c) **It is available**  
The preferred choice of provision must be available and, where Walsall Council is commissioning the support, the provider agrees to deliver the care under Walsall Council's usual terms and conditions.

### **Choice of community-based care provider**

- 5.6 Walsall Council intends that all regulated personal care will be commissioned via direct payments, an Individual Service Fund or through the personal care contract for regulated home based care.

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- 5.7 Direct payments provide the opportunity for people to make their own care arrangements for their Walsall Council funded care. Walsall Council will inform a person about how they can do this including with their preferred care provider.
- 5.8 A person can however refuse a direct payment and ask Walsall Council to arrange their care. When a person does this, they can still express a preferred choice of provider and ask that Walsall Council arranges care from them.
- 5.9 Receiving a preferred provider will require an exceptional circumstance to be identified and would be subject to the provider being available and willing to agree to Walsall Council's usual terms and conditions. The principles of best value will apply whether a preferred provider is already under contract with Walsall Council or not.
- 5.10 For unregulated care the person will be offered the provider or providers who are able to meet their needs in the most cost-effective way.

## Refusal of the presented Options

- 5.11 You have the right to refuse any of the presented options and request for Walsall Council to relook at the market for alternative options to be found.
- 5.12 It is worth keeping in mind that there can be limited places available and any preferred choice from independent searching may not be available. The market is finite and there is significant demand for placements at any one time.
- 5.13 We will go back out to the market a maximum of 3 times to support enabling your choice of future home that can provide for your needs.
- 5.14 After exhausting the 3 searches of the marketplace and presenting options to support your needs a decision will be required and welcome your own options so that we may consider those and reflect back the expectations of the current choices in regards funding and meeting your needs.

## Deferred Payments Option

- 5.15 A deferred payment agreement is an arrangement with Walsall Council that lets you use your home's value to cover care home costs. It lets you delay paying those costs until later, so you don't have to sell your home right away.
- 5.16 Where can I get more information about a deferred payment agreement?

Please refer to the Walsall Deferred Payment policy  
[Deferred payment guidance](#)

## The right to complain or raise a concern

- 5.17 If you feel that your choices have not been considered fairly and in an equitable manner then it is your right to be able to appeal against the choices you have been given then please write to the email address below or send in a written request to appeal against the choices you have been given
- 5.18 If you also feel that you have not been dealt with in the most appropriate manner and wish to complain about the service you have received, please contact us on the details provided below

### To raise a concern

Email: [BrokerageTeam@walsall.gov.uk](mailto:BrokerageTeam@walsall.gov.uk)

### and complaints follow the below link

[Customer Care Services](#)