



counsel + care 
for older people, their families and carers

guide

Guide 53:

Care Home Fees: Third party top-ups in Scotland

Moving to a care home is a big step. It is important that you move to a care home which meets all of your care needs and preferably one that you have chosen to move to. This guide explains how councils in Scotland set standard rates for how much they are prepared to pay for a care home placement. It looks at the circumstances when the council should increase its standard rate to enable you to live in the care home that you have chosen and when a third party, such as a relative or friend, may have to pay a 'top up' to the standard rate to keep you in the care home you have chosen.

The Counsel and Care advice service works with older people, their families and carers to get the best care and support. All the guides and factsheets we produce are available from our website: www.counselandcare.org.uk or paper versions can be ordered by calling 020 7241 8522. You can call our advice line on 0845 300 7585 to arrange an appointment to speak to one of our experienced advisors.



www.counselandcare.org.uk
ADVICE LINE: 0845 300 7585 (local call rate)

Your donations, legacies and payroll giving enable Counsel and Care to get the best care and support for older people, their families and carers

The Counsel and Care service is now part of Independent Age, a unique and growing charity providing information, advice and support for thousands of older people across the UK and the Republic of Ireland. Visit www.independentage.org for more information about Independent Age.

There are differences in the way each country cares for and supports older people. The information in this guide applies to Scotland, although there may be similarities with countries in the rest of the UK.

If you live in England, see our guide:

Care Home Fees: Third party top-ups in England (guide number 17).

If you live in Wales, see our guide:

Care Home Fees: Third party top-ups in Wales (guide number 73).

All of the guides we publish may be downloaded from

www.counselandcare.org.uk/advice-and-information

or posted to you if you call our guide order line on 020 7241 8522.

This guide has the following sections:

1	Moving into a care home	4
1.1	Will you be self-funded or part-funded by the council?	5
1.2	Does my spouse/partner have to pay towards my care home fees? .	6
2	Choosing a care home to meet your care needs	7
3	Choosing a care home that you prefer	8
4	How much should the local council pay?	10
5	Choosing a more expensive care home	11
6	Third party top-up agreements	13
6.1	Can I pay my own third party top up?.....	13
6.2	Can the council seek a top up in all cases where the care home costs more than the standard rate they pay?	14
6.3	Do I have to agree to be a third party for my relative’s care home fees?	15
7	Moving to a care home in a different council area or a different country in the UK	16
8	Paying your own care home fees (self-funders)	19
8.1	If your savings/capital reduces to below £24,750.....	19
9	Do I have to move to a cheaper care home if I can no longer self-fund my care home placement?	21
10	Challenging decisions made by the council	23

1 Moving into a care home

Many people who need care services want to stay in their own home and are able to stay in their own home with the help of support services and home adaptations. However in some cases, you may want to move to a care home because living in your own home has become too difficult. For example, if you have severe mobility difficulties or if you need frequent help with daily tasks, such as washing, dressing and eating. It may also be that you have a number of complex care needs and that a care home is the best place to meet those needs.

If you are considering moving to a care home, you can begin the process by contacting your local council social work department and requesting a 'needs assessment'. Their contact details will be in the phone book under the name of your council or on the council website. If you are already in hospital, the hospital social worker will carry out the needs assessment.

The social work department has a duty to carry out a needs assessment if you 'appear to be in need of services'. The needs assessment will be carried out by a social worker and will identify what your exact care needs are, whether your care needs meet the local council's eligibility criteria, and where those care needs can best be met, for example in your own home, in a care home, or a nursing home. You can have a relative, friend, or independent advocate with you at the needs assessment if you wish.

If you are eligible for financial help from the council, you should receive a 'care plan', sometimes known as a 'support plan'. This is a statement of your individual care needs. If any care needs have not been included in your needs assessment/care plan, you may need to request a review of the assessment or care plan to ensure they are included. For more information about assessments, see our guide:

Assessment and services from your local council in Scotland (guide number 50).

If you move into a care home without contacting the council, the council may refuse to contribute to your care home fees until they have assessed that your care needs meet the local council's eligibility criteria. The social work department will also need to assess whether your care needs meet the criteria to receive a free 'personal care payment' or 'nursing payment' before you can receive them.

1.1 Will you be self-funded or part-funded by the council?

If you have capital over £24,750 (this may include the value of your property), you will be expected to pay the full 'hotel/accommodation' costs of your care home fees until your savings reduce to the upper capital limit of £24,750 (this amount is reviewed every April). The 'hotel/accommodation' costs are the remaining care home fees, not covered by any personal and nursing care payments you are eligible for from the council.

If you have capital below £24,750, your local council is responsible for the full cost of your care home fees, but they will assess how much you are able to pay towards your care home fees each week.

As a general rule, most of your weekly income (your State Pension, Pension Credit etc) will be taken as a contribution towards your care home fees, except for a 'Personal Expenses Allowance' of £23.50 a week which you will keep to cover personal expenses, such as toiletries. You may also be eligible a 'Pension Savings Disregard' of up to £5.80 a week for a single person, or £8.70 a week for a couple.

You will be considered to have a 'tariff income' of £1 per week for every £250 you have in savings between £15,250 (lower capital limit) and £24,750 (upper capital limit). Any tariff income will be added to the amount of actual weekly income you are assessed as being able to contribute towards your care home fees. Once your savings reduce to the lower capital limit (£15,250), your savings should be ignored in the financial assessment but you will continue to pay the assessed amount from your actual weekly income.

1.2 Does my spouse/partner have to pay towards my care home fees?

Your spouse or partner does not have to pay towards your care home fees. There used to be a liable relative's rule whereby the council could ask the spouse remaining at home to contribute to the other spouse's care home fees. This is no longer the case.

Your financial assessment cannot include the financial details of your spouse, partner or any other family members. If the assessment form asks for your spouse or partner's financial details, it is reasonable to withhold these unless you have joint income such as Pension Guarantee Credit, as it should only be your own finances which are being assessed.

2 Choosing a care home to meet your care needs

You can obtain a list of suitable care homes that will be able to meet your assessed needs (as stated in your needs assessment) from the local council social work department. Social Care and Social Work Improvement Scotland (SCSWIS), the 'Care Inspectorate' (tel.: 0845 600 9527; www.scswis.com) and First Stop Care Advice (tel.: 0800 377 7070; www.firststopcareadvice.org.uk) can also provide this information.

Your local council (if you are part-funded by the council and have eligible care needs) should tell you the amount they will usually pay for a care home for someone with your level of assessed needs. This amount is called their 'standard rate' or 'usual cost'. Knowing this will enable you to identify whether any of the care homes you like and that can meet the assessed care needs will accept the council standard rate.

The care homes your local council may suggest are usually those which are the council's 'preferred providers'. These are care homes which will accept the standard rate that the local council has set. This rate is often less than the average cost of private care homes in the area. The actual rate that the local council pays towards your care home fees should be based on your individual care needs in your care plan and the availability of care home placements that meet your care needs at the time you need that care.

The 'choice of accommodation' guidance in Scotland specifically tells local councils not to set an 'arbitrary ceiling' on the amount they will agree to pay for a care home placement. The council cannot set a standard rate and never vary it. Local councils have a duty to increase the amount they will usually pay in certain situations, for example, if the care home that you have chosen is the only care home with a vacancy that can meet your assessed care needs or you have a need to move to another area where all the care homes are more expensive than the current councils standard rate.

3 Choosing a care home that you prefer

If you are self-funding all of your care home fees (i.e. all of the hotel and accommodation costs) as you have capital/savings over £24,750, you can move to any care home you choose, provided it can meet your care needs, has a place available, and the council can agree a contract with the care home for any personal and nursing care payments you are eligible for.

If you are (or later become) part-funded by the local council for the hotel/accommodation costs of the placement because your capital decreases to £24,750, you are not necessarily limited to care homes on your local council's list of preferred providers; you can choose to live in any care home that meets your care needs and accepts the standard rate from the council.

Local councils should ensure that you can exercise genuine choice over where you live. Your local council has a duty to arrange for you to live in the accommodation of your choice, provided that:

- There is a place available
- The social work department agrees that the care home can meet your assessed care needs
- The social work department and the care home owner can agree a contract
- The care home you have chosen will not cost more than the council would usually expect to pay for a care home providing the sort of care you need.

You are able to choose a care home that you prefer, but if it costs more than the local council's standard rate, you may be asked to find a 'third party top-up' contribution unless the more expensive care home is the only one that can meet your assessed care needs. The third party top up could be provided by a member of your family, a friend, or yourself if you have a loan against your property from the council (a deferred payment agreement) or your property your property is temporarily disregarded from the financial assessment (the

12 week property disregard). In some cases, a charity or benevolent organisation may be willing to pay the top up if there is nobody else to pay it. Turn2Us (tel.: 0808 802 2000; www.turn2us.org.uk) may know of charities who provide help with third party top ups.

We would always recommend taking advice initially to see if any third party top up request is appropriate or whether the council should be paying more. You may want to take advice from an advice service such as Counsel and Care (tel.: 0845 300 7585; advice@counselandcare.org.uk) or Care Information Scotland (tel.: 08456 001001; www.careinfoscotland.co.uk).

4 How much should the local council pay?

If your care home fees are part-funded by your local council, the amount the council pays should not depend on what they pay on average, or what they might pay for someone else with different care needs. Instead, your local council should ask whether or not the care home you choose (or that you need to move to) costs more than they would expect to pay to meet your individual care needs. These care needs should include your social, emotional and psychological care needs.

For example, the council may pay more to allow you to move to or remain in a care home close to family and friends so you can maintain contact with them. Another example might be the council paying more than they normally would so you can stay in your current care home if you have been resident there for many years as a self funder and you have built up strong relationships with other residents and care home staff or where it is assessed as being a 'risk' to your wellbeing to move you at this stage of your life.

Your care needs including physical, social, emotional, psychological and mental health care needs should be explicit in your care plan as the council has a duty to meet your eligible care needs as set out in your care plan/support plan. This means your local council should pay enough for you to stay in the care home of your choice if that care home meets your assessed care needs and there are no less expensive care homes available at the time which can also meet all your assessed care needs. In other words, the council has a duty to meet individual assessed care needs, not individual preferences.

5 Choosing a more expensive care home

Local councils are allowed to set a standard rate they are prepared to pay for a care home placement; one rate for a residential care home and another rate for nursing care homes. Until 2011/12 this appears to have been a nationally agreed amount negotiated between 'Scottish Care' and the Confederation of Scottish Local Authorities (COSLA). This 'national contract' is under review at the time of writing.

The amount that your local council sets for your care must be enough to give you a choice of suitable care homes in their area. If you find an alternative care home to those offered by the council, which will make a contract with the council at their agreed price, you should be able to move there. Problems may arise where the fee for the care home you have chosen is higher than the rate the local council would normally pay for the type of care you need. If the care home you have chosen is more expensive than the local council's standard rate, taking into account your individual assessed care needs, you may still be able to move to that care home if somebody else pays the difference (a third party top up) (see section 6).

The first step, however, is to see whether your local council will increase the rate it is prepared to pay for your care. If the council's standard rate is too low to meet your individual assessed care needs, the council should increase it. It should do this if your assessed care needs mean that:

- You need to move to or stay in a more expensive part of the country to maintain family contact (see section 7); or
- It costs more to look after you because of your particular individual care needs. For example, if you are blind it may be reasonable for your local council to pay more for a specialist home for people with sensory impairments; or
- You wish to move to a care home that can fully meet your spiritual or religious needs.

It is important that any special care needs that you have are identified in your needs assessment and written explicitly in your care plan and that you are provided with a copy of this. Your care plan should include not only your physical care needs, but also your psychological, emotional, social, religious and cultural needs as well. For example, if you have lived in a small country village all your life but care homes in your village are more expensive than those in the county town, and such a move would isolate you from your friends and family because it is a considerable distance away, it may be unreasonable for the council to limit its funding to a level which would only pay for a care home in the county town. It would be appropriate for your local council to fund you in a care home in your village to meet all your care needs including your social and emotional care needs (the need to maintain contact with family and friends).

If you do not feel your local council is funding to a rate which allows you to choose a care home which meets all of your assessed care needs, you should consider making a complaint (see section 10).

6 Third party top-up agreements

If you prefer a more expensive care home than the one the local council has offered you (the onus is on the council to show that there are care homes that meet your care needs at the rate they are offering), and it is able to meet your assessed needs, you should still be able to move there if someone will agree to pay the difference. This is called a third party top-up and can be made by a friend, a relative, yourself (in specific situations) or a charity (if the top up is legitimate and nobody else is willing or able to provide it). Fewer charities are providing these now due to the ongoing expense involved.

A third party who agrees to pay a top-up towards your care home fees may be asked by the local council to enter into a contract. The guidance in Scotland appears to give the council discretion to either contract with the care home for the full amount of the fees (including the third party top up amount) and seek to recover that element of the fees from the third party.

Alternatively the council can request that the third party enters into an agreement directly with the care home

Whilst the council retains ultimate responsibility for the cost of your care home fees up to at least the standard rate, if the third party can no longer pay the top-up, the council may seek to place you in a less expensive care home if they can identify one that meets your care needs and it is assessed that it is not a risk to your wellbeing to move to another care home. If the third party pays the top up to the council, in the interim period at least, the council would be responsible for paying the care home fees in full.

6.1 Can I pay my own third party top up?

You cannot pay your own third party top up in a care home from your disregarded capital (any capital under £24,750) except in specific circumstances. The Charging for Residential Accommodation Guide (CRAG) and other Scottish Executive Health Department (SEHD) guidance are clear that you *are* able to pay your own top-up:

- during a 12 week property disregard;
- if you have a deferred payment agreement with the council.

The other circumstance where you can pay your own top up from your own capital or disregarded income is if you are paying less than you would have done towards hotel and accommodation costs of the placement as a result of being eligible for the personal and nursing care payments from the council. You can only top up from certain capital or disregarded income in such circumstances and there are described in CRAG section 8.

6.2 Can the council seek a top up in all cases where the care home costs more than the standard rate they pay?

Your local council should not set a maximum fixed level for their standard rate that routinely means 'third parties' have to contribute towards care home fees. Your local council should only ask for a third party top-up if the care home you want to go to (or are being placed in) genuinely costs more than another care home the council has offered which is available now and can meet your individual assessed care needs. If the care home you want to go to (or are placed in) costs more than the council's standard rate, the council must be able to show that they can offer you a place in a less expensive care home, that can meet all of your assessed care needs, and that a place is available in this care home. It is not whether there will be a placement available at a future date; the place must be available when you need it.

An example of this would be, if there were two care homes, both of which are equally well able to meet your individual assessed care needs (described in your care plan) but the first care home is the one that you prefer. Your local council has set a standard rate of £560 a week. The first care home costs £610 a week and the second care home costs £560 a week. If you were to choose the first care home, your local council would be within their rights to ask for a third party top-up to cover the additional £50 a week, unless you can show why the second care home cannot meet your assessed care needs.

6.3 Do I have to agree to be a third party for my relative's care home fees?

If you are a relative of a resident with a shortfall between what the local council agrees to pay and the fee that the care home charges, you should not feel pressurised into entering into a commitment to top-up the difference.

You should not be asked for a third party top-up unless you have signed a contract (which you do not have to agree to). If you are thinking about committing to a third party top up, it is important to check that the local council is funding at a reasonable rate to purchase the care required to meet the resident's assessed care needs. If you do become a third party, you may have to show that you are likely to be able to keep up the payments for as long as the resident is in the care home.

The third party top up agreement may be between the council and the third party or the care home and the third party depending on whether the council decides to contract with the care home for the full cost or the standard rate. You may want to ask them to contract for the full rate and pay a top up to the council.

If the contract for the top up will be between the third party and the council, before you sign a contract with the local council they should explain what would happen if the care home fee increases (the third party top-up may increase too because the care home fees may increase more than the council standard rate). If you are unable to keep paying your third party top-up, the resident may have to move to a less expensive care home, if one is available, that also meets their care needs. Although in the short-term, the council will be responsible for meeting the cost of the current care home placement in full as per the contract they have with the care home.

Before signing a third party top-up agreement, it may be worth talking to an independent advice service, such as Counsel and Care (tel.: 0845 300 7585; advice@counselandcare.org.uk).

7 Moving to a care home in a different council area or a different country in the UK

If you are self-funding the hotel/accommodation part of your care home fees (because you have capital over £24,750) and you want to move to a care home in another part of Scotland or another country in the UK, you are free to do so. The financial assessment rules of the country where you have moved to will apply as you will be seen as being 'ordinarily resident' there if you later need council support with the fees. You will need to apply to the new council, in the new country, for help with any future care home fee funding.

When you can apply for financial help from the new council will depend on the upper capital threshold set by the country you have moved to: this could be lower or higher than the capital threshold set in Scotland; you will need to check what their threshold is annually as your capital decreases.

You may have been assessed as needing to move to another area by your current council or you may want to move to another area of your own accord without any involvement from the council. The issue of funding is linked to the concept of where you are 'ordinarily resident' (the area where you are considered normally to be living and responsibility for funding). In some cases if you are self-funded you will still be funded (for personal and nursing care elements of the fees) by the current council when you move. In other cases, your ordinary residence will have changed and you will need to apply to the council in the new area for help with funding care home fees – for example if you moved of your own free will with no assessment from the council in Scotland. In this case, you would need to seek the equivalent nursing care payment in England (a registered nursing care contribution) which is paid by the NHS to help pay for your care home fees

Moving to another country in the U.K, as you can see above, is complex because personal and nursing care payments are unique to Scotland although there are different kinds of nursing care payments in other parts of the UK. The issue of cross-border moves and funding responsibility is an issue that

successive governments have admitted needs to be clarified. This has not happened to date because of the different funding systems and regulations/policy. It may be especially complex in the case of 'self-funded' residents moving to England with personal and nursing payments from Scotland. You may want to contact an advice service such as Counsel and Care (tel.: 0845 300 7585; www.counselandcare.org.uk) if this becomes relevant.

When your local council is already funding you, or has agreed to fund you in a care home following a needs assessment, you are free to choose a care home anywhere in Scotland that meets your assessed care needs as set out in your care plan, within certain funding constraints.

You can also choose to move to a council funded care home in England or Wales by special arrangement. This is covered by guidance on cross-border moves and new guidance on ordinary residence and reimbursement of care fees. The two councils must liaise with one another to arrange your care in the new area, with the original council usually reimbursing the new council which makes the arrangements and contracts with the care home.

If you want to move across the border to England or Wales, or you want to move to another area of Scotland, you will need to arrange this with your local council social work department via a needs assessment or re-assessment if you are receiving help from them (or want to receive help from them) to meet your care needs. You may want to ensure that your care plan explicitly states what your care needs are, including your social and psychological care needs. For example, you may wish to move to another area of the country to be near your family or back to the area where you were brought up.

You can obtain information about care homes all over the UK from First Stop Care Advice (tel.: 0800 377 7070; www.firststopcareadvice.org.uk). You can get a list of care homes in Scotland from SCSWIS the 'Care Inspectorate' (tel.: 0845 600 9527; www.scswis.com), the Care Quality Commission

(tel.: 03000 616161; www.cqc.org.uk) if the care home is in England or the Care and Social Services Inspectorate for Wales (tel.: 0300 062 8800; www.cssiw.org.uk) if the care home is in Wales.

In some parts of the country, care homes are more expensive than in other areas. The funding (original) council can have reference to its own standard rate (and that of the new area) when contributing to the cost of your care home fees. However, the council cannot set an arbitrary rate. If it is not possible to meet your care needs in the new area, at the funding council standard rate, the council should increase the rate it pays so that your assessed care needs can be met in an appropriate placement. This may be at the care home closest to the funding council's standard rate, if it is suitable to meet all your care needs as set out in your care plan/support plan.

Whilst you are at liberty to try and identify a suitable care home placement for yourself in a new area, (and in doing so you may want to ask your local council and the new council how much they 'usually' pay for a care home placement for someone with your level of care needs), it is the funding council's responsibility to show that your care needs can be met at the standard rate it is offering. They cannot offer an arbitrary rate and ask you to find a care home irrespective of whether any care homes in the new area accept that rate. Councils should not routinely seek a third party top up. They should only offer an amount that they know will meet all your assessed care needs in a suitable care home.

8 Paying your own care home fees (self-funders)

If you have capital above £24,750, you will have to pay the hotel/accommodation part of your care home fees in full (the costs not covered by personal and nursing care payments – if you are eligible for these).

You may be eligible to receive a personal care payment and nursing care payment from the council towards the cost of your care home fees. To receive these payments, you have to have been assessed by the social work department as having eligible care needs, and the council must have agreed a contract for these payments with the care home. The personal care payment is £163 a week and, if you have been assessed as needing nursing care, you will receive an additional £74 a week as a nursing care payment, so that the total contribution will be £237 a week. These payments are paid directly from the council to the care home on your behalf. The payments cannot be backdated.

If you are eligible for and decide to accept the personal care contribution from the council for a care home placement, regardless of whether you are council-funded or self-funded, you will no longer be eligible to receive Attendance Allowance, or the care component of Disability Living Allowance after 28 days in the care home. Where there are changes in your circumstances (i.e. where you live) and you are in receipt of disability benefits, you must inform the Department for Work and Pensions (tel.: 08457 123 457; www.dwp.gov.uk) as soon as possible. It is best not to assume that the council will do this although they may.

8.1 If your savings/capital reduces to below £24,750

If you have been a self funded resident in a care home and your capital reduces to the upper capital limit of £24,750, you will be eligible to apply for financial help from your local council towards the hotel and accommodation cost of your care home fees (in addition to any nursing payment or personal

care payment you may be already receiving from the council).

However, as stated previously, when you become part-funded by the council for the hotel and accommodation part of the care fees, your personal and nursing care payments may stop benefitting you as they were previously. This is because when someone is self-funding their hotel/accommodation costs, any nursing care payment or personal care payment they are eligible for (up to £237 a week) will reduce their overall bill to the care home.

When someone is part-funded by the council, the nursing payment or personal care payment forms part of what the council would have paid anyway towards the fees on top of the resident's contribution. This means the resident will pay the same (or a similar) contribution to their care home fees from their weekly income for the hotel/accommodation element of the fees as they would have done with or without being eligible the nursing care/personal care payment.

If you are self-funding the accommodation/hotel cost of your care home fees, you should inform your local council as soon as your savings are close to reaching the upper capital threshold (currently £24,750). The local council should then carry out a needs assessment or re-assessment and make the necessary arrangements, without undue delay, to contribute towards the hotel/accommodation cost of your care fees if you have eligible care needs. If the council fail to do so, they may be liable to reimburse you if you are forced to use any capital under £24,750 to pay for your care home fees.

9 Do I have to move to a cheaper care home if I can no longer self-fund my care home placement?

If you are in a care home which you have been self-funding, and your capital reduces to the upper capital limit (currently £24,750) so that you become eligible for financial help from the council towards the hotel/accommodation cost of your care home fees, you may be asked (depending on your care needs and which care homes are available) to move from your current care home to a less expensive care home. This may be because there is not a third party able to pay the necessary top-up fee.

The council must be able to demonstrate that the care home you are moving to can meet all of your assessed care needs as set out in your care plan/support plan at the standard rate it is offering to pay for the care home. If the council cannot meet all of your assessed needs at its standard rate (for example, because there are no available places at the standard rate or because your care plan states that you need to stay in a care home close to your family to meet your social, emotional/psychological care needs), the council should increase what it pays to keep you in your present care home or contribute to the cost of another care home that does meet all of your care needs at a higher rate than the standard rate.

If the council proposes that you move from one care home to another care home that can meet your assessed care needs, you should receive a needs assessment or re-assessment.

You may want to ask the social worker to carry out a risk assessment as part of your needs assessment or needs re-assessment. This is to determine if it may be detrimental to your physical or mental health wellbeing if you are moved from your current care home. This may be assessed jointly by the social worker/care manager, the care home manager, your GP and a psychogeriatrician (a psychiatrist that works with older people) if you have problems with your mental health or mental capacity (i.e. dementia).

In some cases, if you are extremely frail or ill, it may put you at risk if you are moved from one care home to another. If this is assessed as being the case and your current care home is still able to meet your assessed care needs, the council may then increase the amount they pay towards your care home fees. This is because it has been assessed as a need to stay there, not a preference because of the potential risk of having to move. In such a case there should not then be a third party top required.

10 Challenging decisions made by the council

If you are unhappy with the service you have received from your local council or any decisions made by them, you are entitled to raise a complaint. You can raise a complaint about, for example, the service you have received from the council, the care provided in a care home if the council is part-funding it, or the amount of money you are being asked to contribute towards the cost of your care if you feel that it has been assessed incorrectly.

If you have any concerns, in the first instance, you may want to raise the issue informally with the individual or the manager of the service you want to complain about. If you feel unable to approach the individual concerned, or you are unhappy with their response, you may want to consider making a formal complaint.

All local councils have a formal complaints procedure. You can obtain a copy by telephoning the council directly and requesting a copy or it may be available on the council's website. The current complaints process for Scotland is under review and may change in the future.

Depending on the nature of the complaint, you (or an independent advocate, a relative or carer on your behalf) may be able to raise your complaint with SCSWIS – the 'care Inspectorate' (tel.: 0845 600 9527; www.scswis.com). The SCSWIS regulates and inspects social care in Scotland. They can investigate any complaint which relates to the National Care Standards in Scotland. You do not have to have previously raised your complaint directly with the service you are unhappy with, for example, social work or the care home. It may be appropriate though to give them a chance to respond first if you feel able to do this and if it is appropriate to do so.

It may not be appropriate to delay contacting external agencies, such as SCSWIS, social work or the police if, for example, the complaint relates to abuse.

You may find it useful to seek the assistance of an independent advocate if you find the prospect of making a complaint daunting and/or you feel unable to voice your concerns. An independent advocate will be able to help you to voice your concerns and your rights or represent these on your behalf to the other people involved in your care to ensure that your rights are protected. To find an independent advocate in Scotland, contact the Scottish Independent Advocacy Alliance (tel.: 0131 260 5380; www.siaa.org.uk).

For more information about advocacy and making a complaint, see our guides:

Complaints about community care and NHS services in Scotland (guide number 54); and

Independent Advocacy (guide number 25).

This factsheet is not a full explanation of the law and is aimed at people aged over 60

The Counsel and Care service is now part of Independent Age. Independent Age is the operating name of the Royal United Kingdom Beneficent Association.

Registered address: 6 Avonmore Road, London W14 8RL

Registered charity number 210729

Tel.: **0845 300 7585**

Email: **advice@counselandcare.org.uk**

Website: **www.counselandcare.org.uk**

If you have found our advice useful, please consider making a donation or leaving a legacy in your will.

As a charity we rely on donations

© Counsel and Care April 2012