ASC Finance Top Up Policy

Portsmouth
CITY COUNCIL

Summary:

This Policy is to set out Portsmouth City Councils approach in relation to first- and third-party top ups.

Date of Issue	24 October 2025
Next Review Date	October 2026
Policy Owner (TITLE not name)	Finance Manager
Policy Author & Department	Kelly Redman - Finance (ASC Income)
Related Documents	• Care Act 2014 • ASC Choice Policy • ASC Charging Policy • ASC Debt Recovery Policy
Applicability	Adult Social Care
Revision History	V1.2

Contents:

Reference Documents

ASC Choice Policy
ASC Charging Policy
Care Act
ASC Debt Recovery Policy

1 Introduction

1.1 Adult Social Care has a statutory responsibly to provide care to a person who meets eligibility as per the Care Act 2014 when the need is identified for residential or nursing care, and in meeting that need by arranging care and support for an individual, it is legally responsible for contracting with the care provider.

1.2 Portsmouth City Council have a brokerage system for the commissioning of residential/nursing accommodation. This system will determine what is a reasonable price to meet a person's eligible need; considering the level of care and support required and the current market value. Once the commissioning price has been established this will be the basis for setting the individual's personal budget and Portsmouth City Council will not fund more than this value barring exceptional circumstances.

1.3 A financial assessment will be completed to take account of the client's ability to contribute towards the cost by the Council in the meeting of their needs. This assessment is based on their income, savings and any other capital. This is usually known as the "Client Contribution". Reference should be made to the Care Act and the Councils **ASC Charging Policy** for further information and guidance.

1.4 Where an individual chooses accommodation above the determined personal budget a top up would be required. Reference should be made to the Councils "Choice Policy",

There are two types of top-ups:

- first-party top-up, where the person provides their own money - at present, there are only limited circumstances in which first-party top-ups may be made.
- third-party top-up, where the top-up is funded by someone else, e.g., a relative.

2 Purpose

2.1 The purpose of the Adult Care & Support Top-up Policy is to set out:

- When a top-up would apply
- How a top-up it is calculated
- The process for agreeing a top-up

2.2 This policy applies to adults that have been assessed by the Council and have been found to have eligible needs for care and support under the Care Act 2014. This policy is followed by staff when a person chooses more expensive care and support than is allocated to them in their personal budget to meet the needs the Council is required or chooses to meet; the additional payment for such care is commonly referred to as a 'top-up.

2.3 The Choice of Accommodation Regulations that provides for top-up payments, enables individuals to choose their preferred residential setting for care, relating to situations in which a person is receiving care in certain types of accommodation outside of the home. Where a person is receiving care in their own home or in the community, they are not barred from purchasing additional care to what is provided by the Council if they wish to do so and are able to pay for it. Similarly, a third party is not barred from purchasing additional care for another person.

However, where care is being provided in the community by the Council, there is presently no legal framework which exists for the Council to assess of a 'top-up' payment to be combined with Council contributions and the person's care charges to pay for an alternative care package.

3 Statement of Policy

3.1 In some cases, a person may actively choose a setting that is more expensive than the amount identified for the provision of the care and support in the personal budget.

Adult Social Care staff must ensure, before a top up is discussed, that the person is actively making a choice to opt for a more expensive option. The council should evidence the price identified via the Councils brokerage system and how this is used to set a person's personal budget. Discussion surrounding accommodation should be recorded.

Where the person has chosen care and support costs more than the personal budget, a contractual arrangement will need to be made as to how the difference will be met. This is known as an additional cost or 'top-up' payment and is the difference between the amount specified in the personal budget and the actual cost of the care. In such cases, the Council will arrange for the care, provided a third party (or in certain circumstances a first party) is willing and able to meet the additional cost, and that this is sustainable. This will be confirmed via a level of affordability assessment of the First or Third Party.

In exceptional circumstances, the person in need of services may be able to meet the top up themselves from their own financial resources known as a *First party top up* - for example if the individual is subject to Section 117 aftercare or has signed up or intending to sign up to the deferred payment scheme and has the available capital to meet the top-up payments within the first 12 week disregard period.

If certain eligibility criteria are met and with prior approval from the service, the client may be able to add the first party top up amount required for the 12 week property disregard period to a deferred payment loan - refer to point 3.9 for further guidance on this.

Mental capacity will need to be a consideration prior to acceptance of any first party top up. Reference should be made to the **Care Act 2014** and the councils **ASC Charging Policy**.

3.2 The cared for person has the right to choose the care provider that they wish to deliver their care and support, reference should be made to **ASC Choice Policy**, subject to certain conditions, such as:

- the care and support is suitable in relation to the person's assessed needs.

- to do so would not cost the Council more than the amount specified in the adult's personal budget for care and support of that type.
- the care and support is available; and
- the provider of the care and support is willing to enter into a contract with the council, to provide the care at the rate identified in the person's personal budget, on the council's terms and conditions.

3.3 The Council is required to provide at least one option that is available that is affordable within the Council normal expected expenditure. If no preference has been expressed and no suitable care and support is available, in exceptional circumstances the Council may arrange care at a more expensive rate and adjust the budget accordingly, to ensure that needs are met. In such circumstances, the Council cannot ask for the payment of a 'top-up' fee and will not seek to undertake a financial assessment of any potential third-party representative.

3.4 Where a person contributes to the cost of their care, following the completion of a financial assessment, they must not be asked to pay more than their assessment shows they can afford.

3.5 Where a person has chosen care and support that is more expensive, the Council will take steps to ensure that the person understands the full implications of this choice, by providing sufficient information and advice to ensure they understand the terms and conditions. This should include for example that a third party, or in certain circumstances the person needing care and support, will need to meet the additional cost of that setting for the full duration of their stay, and that should the additional cost not be met they may be moved to an alternative care provider.

3.6 The Council must ensure that the person paying the 'top-up' is willing and able (via a level of confirmed affordability assessment) to meet the additional cost for the likely duration of the arrangement, Portsmouth City Council expects the affordability to be sustainable for a period no less than 2 years. Therefore, it must ensure that the person paying the 'top up' can evidence sustainability of meeting any top up and willing to enter into a written contractual agreement with the Council.

The agreement will include the following:

- the additional amount to be paid;
- the amount specified for the accommodation/care in the person's personal budget;
- the frequency of the payments;
- to whom the payments are to be made;
- provisions for reviewing the contractual agreement;
- a statement on the consequences of ceasing to make payments;
- a statement on the effect of any increases in charges that a provider may make;
- a statement on the effect of any changes in the financial circumstances of the person paying the 'top-up'.
- agreement to pay via Direct Debit.
- A copy of the affordability assessment.

3.7 The amount of the ‘top-up’ should be the difference between the actual costs of the preferred provider and the amount that the Council would have set in a personal budget, to meet the person’s eligible needs by arranging or providing accommodation of the same type.

3.8 This top up amount must be paid, by signed contractual agreement, directly to the council, enabling the council to pay the full cost of the care to the care home (which will include the council's contribution, client's contribution, and the contribution/top up amount).

There are other terms and conditions which must be clearly explained and documented regarding the consequences should payments not be upheld as originally agreed, and the potential impact of annual price increases and annual review of client contribution:

- Failure to keep up with the top-up payments may result in the service user having to move to other accommodation, subject to a full care assessment of needs
- any increase in the service user's income will not necessarily lessen the need for a top-up contribution as their income is subject to a means tested financial assessment by the council in the normal way;
- any rise in the accommodation fees will not automatically be shared between the council Servicer User and first / third party.

3.9 If an individual owns a property, has been assessed as a self-funding client and is going to enter into a Deferred Payment Arrangement with the Council, they may be able to add the value of a first party top up for the 12-week property disregard period to the Deferred Loan, which will be repaid when the property is sold.
Approval for such an agreement will be considered on a case-by-case basis.

To be considered eligible for this, the following criteria must be met:

- The individual is in permanent residential/nursing care; owns a property and is eligible for the 12-week property disregard and has been assessed as a self-funder from week 13.
- The council have agreed a funding rate for the 12-week property disregard period but a top up is required due to the individual choosing a more expensive home to reside in.
- The individual cannot afford to pay the top up themselves from capital held in the bank confirmed via a completed affordability assessment carried out by the FAB team.
- Adding the top up amount to the Deferred Loan should only be considered as a last resort and there is no one else who can pay the top up i.e. a third party and all other options have been explored.
- The individual will be signing up to a deferred payment loan from week 13 in order for the council to lend the care home fees until the property is sold.
- The property has sufficient equity available to loan against which includes the total top up amount for the full period **plus** a minimum of 2 years sustainability for the deferred loan and this has been confirmed via the completion of a sustainability assessment carried out by the FAB team.

If the individual does not meet all the eligibility criteria, the first party top up cannot be added to the deferred payment arrangement and the allocated social worker will need to consider other options available for the residential/nursing care placement.

4 Responsibilities

4.1 The amount of the top-up must be agreed at the time the person starts receiving care and support, or when they go into a care home, therefore should form part of the Social Care assessment.

4.2 Where it is indicated to the Social Worker that more expensive accommodation is the preferred choice and not the placement offered by PCC, a referral should be made to the FAB team immediately to ensure the First or Third party are aware of the implication of this choice.

4.3 Terms and conditions of first and third-party top ups should be made clear by the FAB Team to the cared for person and the third party, so they are able to make an informed choice regarding the financial responsibility.

4.3 Only one person can be named as being the first or third-party contributor, but this does not mean that family members cannot agree to make the payment between themselves. It does mean that one member of the family is responsible for making the payment and will be liable for any default on payment to the Council.

4.2 The designated first or third-party will be required to sign a direct debit mandate for the payment of the agreed top up value to be paid on the 15th of each month, see appendix 1.

4.3 The first or third-party must be in a position to maintain the top-up payments themselves.

In respect of a third party top up, the third-party cannot use the cared-for person's savings or income to fund the top-up payments.

4.4 An affordability assessment, subject to how the top up is to be met (Capital or Income), should be completed to ensure the Council is satisfied that the financial resources are adequate to meet the defined top up and is sustainable for a period no less than 2 years, see appendix 2.

4.5 Once the Council has completed the affordability assessment the first or third-party will be required to sign a contractual first or third party top up agreement, see appendix 3. Once the Council have all three documents (affordability assessment, signed Direct Debit mandate and signed first or third-party contractual agreement) they will proceed in the commissioning and contractual arrangements with the care provider.

4.6 In the absence of the above-mentioned, the Council will not enter into the First- or Third-Party arrangement.

4.7 Placement should only happen after the Council is satisfied, via an affordability assessment, that the first or third party has the funds to make the payments agreed.

4.8 The signed first or third-party top up agreement, and affordability assessment will be reviewed annually by the FAB team and ensure a new agreement is obtained in line with each price review.

4.9 There will still be a requirement for a level of assessment of the financial resources for the Adult receiving Care, as they will be expected to contribute based on their available income, capital as per the Care and Support (Charging and Assessment of Resources) Regulations 2014, and the Care and Support and Aftercare (Choice of Accommodation) Regulations 2014.

4.10 Where care homes seek to increase the resident's fee (likely at least annually), this will affect the amount of the top up contribution. The council will write to the liable party in such cases and request the signing of a new first or third-party contractual agreement.

4.11 Where a request for a top-up agreement has been declined the decision will be confirmed in writing to the person receiving care and support and in the case of third-party top-ups, the identified third-party.

4.12 If the first or third-party believes that the Council has not applied the top-up policy correctly, they can ask the Council to reconsider their decision. All requests for reconsideration must be received in writing setting out the reasons for the request for reconsideration. All requests will be considered by the Council's ASC Head of Service to check that the policy had been applied correctly.

4.13 If the person making the top-up is at risk of not being able to pay, attempts would be made to negotiate with the provider a reduction in the top-up to an affordable rate. Where this is not possible an alternative provider may need to be sought after a new care needs assessment. It may be necessary for the person receiving care to move to alternative residential accommodation.

4.14 Should the first or third party fall into arrears with the payment required, the local authority will continue to attempt to recover the monies owed in line with **PCC ASC Debt Recovery Policy**.

Appendix 1 - Direct Debit Mandate

DIRECT Debit

Portsmouth CITY COUNCIL

Instruction to your bank or building society to pay by Direct Debit

Please fill in the whole form including official use box using a ball point pen and send it to:

Accounts Receivable
Income Section
Financial Services
Portsmouth City Council
Civic Offices, Guildhall Square
Portsmouth
PO1 2AR

Service user number

9	7	3	4	5	6

FOR Portsmouth City Council OFFICIAL USE ONLY
This is not part of the instruction to your bank or building society.

Adult Social Care Finance Team
Customer
Please specify your preferred payment date from the options below:

7^{th} of the Month ☐ 15^{th} of the Month ☐

22^{nd} of the Month ☐ 28^{th} of the Month ☐

For any queries, please contact us on 023 9268 8122

Name(s) of account holder(s)

Bank/building society account number

Branch sort code

Name and full postal address of your bank or building society

To: The Manager Bank/building society

Address

Postcode

Instruction to your bank or building society
Please pay Portsmouth City Council Direct Debits from the account detailed in this Instruction subject to the safeguards assured by the Direct Debit Guarantee. I understand that this Instruction may remain with Portsmouth City Council and, if so, details will be passed electronically to my bank/building society.

Signature(s)

Date

Reference (For Internal Use Only)

Banks and building societies may not accept Direct Debit Instructions for some types of account DDI1

This guarantee should be detached and retained by the payer.

The Direct Debit Guarantee

DIRECT Debit

- This Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits
- If there are any changes to the amount, date or frequency of your Direct Debit Portsmouth City Council will notify you 10 working days in advance of your account being debited or as otherwise agreed. If you request Portsmouth City Council to collect a payment, confirmation of the amount and date will be given to you at the time of the request.
- If an error is made in the payment of your Direct Debit, by Portsmouth City Council or your bank or building society, you are entitled to a full and immediate refund of the amount paid from your bank or building society
  - If you receive a refund you are not entitled to, you must pay it back when Portsmouth City Council asks you to
- You can cancel a Direct Debit at any time by simply contacting your bank or building society. Written confirmation may be required. Please also notify us.

Appendix 2 - Affordability Assessment of Third Party

2a Assessment of Income

Appendix 2

SS REF	
Client Name	
Nominated First / Third Party Name	

First / Third Party Affordability Form - Income

You have stated that you wish to be considered for making a first or third party top up to support the above named placement. You have advised that you are able to sustain payments as detailed below from your available income. You have agreed to comply with an affordability assessment to satisfy Portsmouth City Council that you are able to meet this ongoing financial committment.

Are you expecting any changes to the information you provide within the next 12 months	YES	NO

TERMINATION OF THIS AGREEMENT OR FAILURE OF THE FIRST OR THIRD PARTY TO MAKE A CONTRIBUTION MAY RESULT IN THE ABOVE NAMED CLIENT HAVING TO BE RELOCATED TO ALTERNATIVE ACCOMODATION THAT IS WITHIN PORTSMOUTH'S MAXIMUM PAYMENT LEVEL.

WEEKLY Top Up Amount:	£

Care Home Name	
Weekly - Total Cost of Placement	£
Weekly - Personal budget (PCC)	£

Personal Details	
Name	
Address	
Post Code	
Date of Birth	
NI No	
Telephone Number	
Home	
Work	
Mobile	
e-mail address	
Occupation	
Home Owner	
Shared Owner	
Number of Dependents	
Age of Dependents	
Relationship to Service User	

Weekly Income	
Your Salary (net of Tax, NI etc)	£
Partner's Salary (net of Tax, NI e	£
Child Benefit	£
Child Maintenance	£
Other Benefits	£
	£
	£
Other Income	£
i.e. contribution from others towards top up	
Total Income	£
Assets (details required)	
Bank details	£
	£
Total Balance	£
Investments	£
Life Policies	£
Stocks / shares	£
Property Owned	
(Main residence disregarded)	
Other assets	£
Total Assets	£

Weekly expenditure	
Mortgage	£
Rent	£
Council Tax	£
Loans	£
Credit Cards	£
HP Agreements	£
Store Cards	£
Others (please state)	£
Total Expenditure	£

Please note PCC allow a Minimum Income Guarantee (MIG) allowance per week to cover food/utilities/water/gas/electricity in accordance with the MIG rates set by the Department of Health. The FAB officer completing your assessment will advise the amount of MIG that will be applied

Summary	
Total Income	£
Less MIG to be applied	£
Less total expenditure	£
Net Available Income	£
Weekly 3rd Party required	£
SURPLUS	£
Affordable?	**YES / NO**

First Party Top Up Eligibility Criteria:

I confirm I am eligible for a first party top up under the following critiera:

Subject to S171 Aftercare	☐
12 Week Property Disregard	☐

DECLARATION: Please read the information below before signing

I confirm the details provided by me are accurate to the best of my knowledge

I Understand if accepted to make a first or third party top up, I may terminate this agreement by giving Portsmouth City Council one month's notice in writing. I understand terminating this agreement or failing to make regular contributions will result in the resident having to be relocated to alternative accommodation within Portsmouth's maximum payment level.

Signed Date

Print Name

Comments:

OFFICE USE ONLY

Signed for and on behalf of Portsmouth City Council

Signed Date

Authorised Signatory

Print Name

2b Assessment of Capital

Appendix 2 (b)

SS REF	
Client Name	
Nominated First / Third Party Name	

Portsmouth CITY COUNCIL

First / Third Party Affordability Form - Capital

You have stated that you wish to be considered for making a first / third party top up to support the above named placement. You have advised that you are able to sustain payments as detailed below from your capital/savings. You have agreed to comply with an affordability assessment to satisfy Portsmouth City Council that you are able to meet this ongoing financial committment.

Are you expecting any changes to the information you provide within the next 12 months	YES	NO

TERMINATION OF THIS AGREEMENT OR FAILURE OF THE FIRST / THIRD PARTY TO MAKE A CONTRIBUTION MAY RESULT IN THE ABOVE NAMED CLIENT HAVING TO BE RELOCATED TO ALTERNATIVE ACCOMODATION THAT IS WITHIN PORTSMOUTH'S MAXIMUM PAYMENT LEVEL.

WEEKLY Top Up Amount: £

Care Home Name	
Weekly - Total Cost of Placement	£
Weekly - Personal budget (PCC)	£

Personal Details	
Name	
Address	
Post Code	
Telephone Number	
Home	
Work	
Mobile	
e-mail address	
Relationship to Service User	

Capital Held:	
Current Account:	
	£
Savings Account/s:	
	£
	£
Investments	
	£
Stocks / Shares	
	£
Other assets	£
Total capital held:	**£**
Top up sustainable for:	Weeks

Capital needs to sustain top up for a minimum of 104 weeks / 2 years

DECLARATION: Please read the information below before signing

I confirm the details provided by me are accurate to the best of my knowledge

I understand if accepted to make a first or third party top up, I may terminate this agreement by giving Portsmouth City Council one month's notice in writing. I understand terminating this agreement or failing to make regular contributions may result in the resident having to be relocated to alternative accommodation within Portsmouth's maximum payment level.

Comments:

First Party Top Up Eligibility Criteria:

I confirm I am eligible for a first party top up under the following critiera:

Subject to S171 Aftercare ☐

12 Week Property Disregard ☐

Signed Date

Print Name

OFFICE USE ONLY

Signed for and on behalf of Portsmouth City Council

Signed Date

Authorised Signatory

Print Name

Appendix 3 - Contractual Agreement - Third Party

Third Party Top Up - Contractual Agreement

Dated:

This Agreement is made between:

Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth, PO1 2AR

and

[Insert name of the 'Third Party']

[Insert address of the 'Third Party']

Each a 'Party' and together the 'Parties'

This Third-Party Agreement is supplementary to the Individual Placement Agreement and the Services Agreement and is made in respect of:

Name of Person:

SSRef:

Name of Chosen Care Home:

Name of Third Party:

YOU MAY WISH TO SEEK INDEPENDENT LEGAL ADVICE AS TO YOUR COMMITMENT AND OBLIGATIONS UNDER THIS THIRD-PARTY AGREEMENT.

The Parties agree that:

1. This Third Party Agreement shall commence on [insert date]
2. The Third Party Top Up shall be as set out in Annex 1 to this Agreement.
3. Where the costs of a Placement are more than the Council's Contribution and if relevant, the Health Contribution and the Persons Contribution, a third party may enter into this Third-Party Agreement with the Council to pay the Third Party Top Up.
4. The Third Party must be able to demonstrate to the Council that the Third Party Top Up is affordable to them and provide evidence of this to the Council if requested.
5. The Parties agree that the level of Third-Party Top Up required will be the difference between the Fees and the total of the Council's Contribution, the Person's Contribution (if relevant) and the Health Contribution (if relevant).
6. The Third Party understands that payment of the Third Party Top Up is an ongoing commitment for which they remain liable until the placement ends.
7. The Third Party shall pay the Third Party Top Up for the duration of the Placement.
8. The Council shall notify the Third Party of any increases to the Third Party Top Up in writing at least four 4 weeks in advance with the reason(s) clearly evidenced. Any increase will be the catalyst for the Council to undertake a value for money assessment to ensure the Third-Party Top Up remains affordable and reasonable.

9. The Third Party shall pay the Third Party Top Up to the Council within the payment terms of the received invoice.

10. The Council shall have the right to charge interest on any overdue payment at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

11. The Third Party shall remain liable for any unpaid Third Party Top Up payment and the Council reserves the right to recover from the Third Party any outstanding Third Party Top Up that becomes due.

12. The Third Party understands that the failure to continue payment of the Third Party Top Up may result in the need to move the above named "Person" to another room within the Care Home or an alternative care home that can meet the Person's Needs within the total sum of the Council's Contribution, the Person's Contribution (if relevant) and the Health Contribution (if relevant). Any decision of this nature would be fully risk assessed by the Council with the Person's individual safety as paramount and discussed with the Person and the Persons Representative.

13. In the event that the Third Party is unable to continue to make the Third-Party Top Ups it is the responsibility of the Third Party to contact the Council immediately to discuss the change in circumstances.

14. The Third Party understands that the Council may look to terminate a Placement if the Third-Party Top Up remains unpaid for eight 8 weeks or more.

15. For the avoidance of doubt this Third-Party Agreement shall terminate immediately if a Persons Placement is terminated and no further Placement is made.

16. The Council shall maintain clear records showing the amount of Third-Party Top Up received.

17. The Parties agree that nothing contained in this Third-Party Agreement, and no actions shall be taken by the Parties pursuant to this Third Party Agreement, and will be deemed to constitute a relationship between the Parties of partnership, joint venture, principal and agent or employer and employee. Neither Party has, nor may it represent that it has, any authority to act or make any commitments on the other Parties behalf.

IN WITNESS whereof this Agreement has been signed by the Parties hereto and is intended to be and is hereby delivered on the day and year first above written.

SIGNED:

on behalf of PORTSMOUTH CITY COUNCIL

…………………………………………………….…
Authorised Officer

……………………………………………………....
Third Party

ANNEX 1

The Third Party shall pay the Council the Third Party Top Up of:

£ 0.00 per week

To commence from (enter start date), until placement end, unless ended in accordance with notice periods as defined in this agreement of 4 weeks.

The Third Party top up billing cycle will be weekly (Monday - Sunday), this will be invoiced monthly denoting either 4- or 5-weeks charge(s) subject to the number of Sundays within the calendar billing month.

In accordance with the Third Party Top Up Agreement

The Affordability Assessment shall be reviewed on an annual basis. The level of the Third Party Top Up shall be reviewed following any subsequent Affordable Assessment of a Person.

Appendix 3 - Contractual Agreement - First Party

First Party Top Up - Contractual Agreement

Dated:

This Agreement is made between:

Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth, PO1 2AR

and [Insert name of the 'First Party']

of [Insert address of the 'First Party']

Each a 'Party' and together the 'Parties'

This First-Party Agreement is supplementary to the Individual Placement Agreement and the Services Agreement and is made in respect of:

Name of Person:

SS Ref:

Name of Chosen Care Home:

Name of First Party:

Eligibility of First Party Top up: *(tick whichever is applicable)*

1. The person named above is subject to S171 aftercare ☐

2. The person named above is subject to a 12-week property disregard ☐

If the individual does not meet either of the above criteria, they cannot enter a first party top up agreement.

YOU MAY WISH TO SEEK INDEPENDENT LEGAL ADVICE AS TO YOUR COMMITMENT AND OBLIGATIONS UNDER THIS FIRST-PARTY AGREEMENT.

The Parties agree that:

1. This First-Party Agreement shall commence on [insert date]

2. The First Party Top Up shall be as set out in Annex 1 to this Agreement.

3. Where the costs of a Placement are more than the Council's Contribution and if relevant, the Health Contribution and the Persons Contribution, a first party may enter into this First-Party Agreement with the Council to pay the First Party Top Up subject to meeting the set eligibility criteria above in accordance with the Care Act 2014.

4. The First Party must be able to demonstrate to the Council that the First Party Top Up is affordable to them and provide evidence of this to the Council if requested.

5. The Parties agree that the level of First-Party Top Up required will be the difference between the Fees and the total of the Council's Contribution, the Person's Contribution (if relevant) and the Health Contribution (if relevant).

6. The First Party understands that payment of the First Party Top Up is an ongoing commitment for which they remain liable until the placement ends.

7. The First Party shall pay the First Party Top Up for the duration of the Placement.

8. The Council shall notify the First Party of any increases to the First Party Top Up in writing at least four 4 weeks in advance with the reason(s) clearly evidenced. Any increase will be the catalyst for the Council to undertake a value for money assessment to ensure the First-Party Top Up remains affordable and reasonable.

9. The First Party shall pay the First Party Top Up to the Council within the payment terms of the received invoice.

10. If agreement has been sought and eligibility criteria met to add the First Party Top Up amount for a 12 week property disregard period to a Deferred Payment Arrangement, the First Party individual understands that the full amount of the top up will be added to the deferred payment loan and repaid in full when the property is sold.

11. The Council shall have the right to charge interest on any overdue payment at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

12. The First Party shall remain liable for any unpaid First Party Top Up payment and the Council reserves the right to recover from the First Party any outstanding First Party Top Up that becomes due.

13. The First Party understands that the failure to continue payment of the First Party Top Up may result in the need to move the above named "Person" to another room within the Care Home or an alternative care home that can meet the Person's Needs within the total sum of the Council's Contribution, the Person's Contribution (if relevant) and the Health Contribution (if relevant). Any decision of this nature would be fully risk assessed by the Council with the Person's individual safety as paramount and discussed with the Person and the Persons Representative.

14. In the event that the First Party is unable to continue to make the First-Party Top Ups it is the responsibility of the First Party to contact the Council immediately to discuss the change in circumstances.

15. The First Party understands that the Council may look to terminate a Placement if the First-Party Top Up remains unpaid for eight 8 weeks or more.

16. For the avoidance of doubt this First-Party Agreement shall terminate immediately if a Persons Placement is terminated and no further Placement is made.

17. The Council shall maintain clear records showing the amount of First-Party Top Up received.

18. The Parties agree that nothing contained in this First-Party Agreement, and no actions shall be taken by the Parties pursuant to this First Party Agreement, and will be deemed to constitute a relationship between the Parties of partnership, joint venture, principal and agent or employer and employee. Neither Party has, nor may it represent that it has, any authority to act or make any commitments on the other Parties behalf.

IN WITNESS whereof this Agreement has been signed by the Parties hereto and is intended to be and is hereby delivered on the day and year first above written.

SIGNED:

on behalf of PORTSMOUTH CITY COUNCIL

…………………………………………………………….…
Authorised Officer

………………………………………………………….....
First Party

ANNEX 1

The First Party shall pay the Council the First Party Top Up of:
£ per week

To commence from (enter start date), until placement ends, unless ended in accordance with notice periods as defined in this agreement of 4 weeks.

or
In respect of a 12-week property disregard period the first party top up shall be for the period of (enter start date) and (enter end date)

Total amount of top up to be paid for the property disregard period = **£** enter total amount

*I understand that the First Party top up billing cycle will be weekly (Monday - Sunday), this will be invoiced monthly denoting either 4- or 5-weeks charge(s) subject to the number of Sundays within the calendar billing month and I will receive an invoice at the end of each month in order to pay the top up amount.

or
*I understand that the First Party top up billing cycle will be weekly (Monday - Sunday), this will be invoiced monthly denoting either 4- or 5-weeks charge(s) subject to the number of Sundays within the calendar billing month and I will receive an invoice at the end of each month.
I understand that the full amount of the top up will be added to the Deferred Payment Arrangement being entered into with the Local Authority effective from (enter start date of DPA), and will be repaid in full with the Deferred Payment Loan when the property is sold.

*(*Delete whichever is not applicable)*

The Affordability Assessment shall be reviewed on an annual basis. The level of the Third Party Top Up shall be reviewed following any subsequent Affordable Assessment of a Person.