**Guide to Third Party Top Ups With Top Up Agreement**

**Third party contribution also known as a top up**

**Explanation of third party contribution also known as top up**

A customer chooses a care home where the costs are higher than the costs Derby City Council would usually pay and there are homes available at the Council’s usual or standard costs which would meet the needs of the customer. In these circumstances, the additional costs known as a third party contribution or top up must be met by a spouse who is not in residential care, a relative, friend or sometimes a charity.

**Who can pay the third party contribution or top up?**

The third party payee can be a spouse, partner or civil partner who is not in residential care, another family member, friend or sometimes a charity. **You cannot generally pay your own top up**. There are only three exceptions where you can pay your own top up:

1. If you own a property and the value of your property is not taken into account for the first 12 weeks of your permanent care, you can pay your own top up for those 12 weeks if you have sufficient funds other than any income and capital which is taken into account in your financial assessment. For example, you can pay this from the part of your capital which is not taken into account up to £14,250.00.

2. If you own a property and enter into a Deferred Payment agreement.

**For both of the above exceptions 1 and 2 please see guide 3 – guide to charges for residential accommodation for people with property**

3. If you are receiving care provided under Section 117 of the Mental Health Act.

**Can I use my own money to pay the top up or third party contribution?**

No, you can’t use your income for example, state benefits, occupational pensions, annuities etc. Your income is taken into account to calculate the weekly charge you must pay towards the standard cost of the care home.

Your savings/capital cannot be used to pay the third party contribution except where you own a property and this is subject to the 12 week property disregard and/or you enter into a Deferred Payment Agreement. Savings/capital above a certain level must be taken into account to calculate the weekly charge you are required to pay towards the standard cost of the care home. Derby City Council **will not** enter into a third party agreement if it is stated that your capital/savings will be used other than in the circumstances mentioned.

Your weekly personal expenses allowance cannot be used to pay the third party contribution.

**What happens when a third party or customer signs the third party or top up Agreement?**

When someone agrees to become a third party payee, and signs the agreement, the third party is making a **contractual agreement** to confirm they are willing and able to make the appropriate payments from their **own money**. Arrangements will then be made to collect the third party either by four weekly invoice or direct debit. This agreement remains in force while you are resident in the home and a Third Party contribution is needed.

Non-payment of the third party contribution may result in debt recovery action being taken against the third party payee.

**What happens if the third party payee can no longer afford to pay the third party contribution?**

When there is an unexpected change to the third party payee’s financial circumstances and they can no longer afford the amount of the third party contribution, it is important for the third party to contact Derby City Council about this matter immediately. It **may** be possible to negotiate with the home to either waive or reduce the amount of the third party contribution. It should be noted that although the Social Care Worker may offer advice on this they have no control, or discretion, over what the home charges. Where the third party amount cannot be waived or reduced, the customer may have to move to a less expensive room at the home where available or to an alternative care home at a reduced cost with a reduced third party contribution or a care home at Derby City Council’s standard fee rates with no third party contribution.

**What happens if the care home increases the costs?**

It is important also to realise that homeowners can increase their fees at any time so the amount of the third party contribution is not guaranteed to remain the same. Where a third party contribution does increase the home owner has to give Derby City Council 28 days’ notice of any such increase. Notice of any increase should be given to the Social Care Worker who in turn will liaise with the third party payee. Where the third party payee agrees to the revised third party amount a new contract will be drawn up with the home, on behalf of you and a revised third party agreement will have to be signed.

If the third party payee is unable or unwilling to meet the increased fee it **may** be possible to negotiate with the home to either waive or reduce the amount of the increased third party contribution. Again, it should be noted that although the Social Care Worker may offer advice on this they have no control, or discretion, over what the home charges.

After any negotiations, if the third party payee is still unable or unwilling to meet the increase, the home can request, with 28 days’ notice, that you find an alternative care home at a reduced cost with a reduced third party contribution or a care home at Derby City Council’s fee rates.

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**Customer agreement to third party or top up**

* I acknowledge that a care home which is more than the usual cost Derby City Council would expect to pay has been chosen by me or my representative. I have been offered homes at the Derby City Council’s usual costs. The Council’s usual standard fee is £ weekly. At (date) (Name of care home) fees are £ weekly.
* I agree to make a third party contribution/top up of £ weekly towards the accommodation fees for (name of customer). This is the difference between the usual weekly cost and the weekly amount the care home is charging.
* I confirm that I can afford to pay this third party contribution/top up. I agree that I must notify Derby City Council immediately if I am no longer able to pay the third party contribution/top up.
* If I am no longer able to pay the third party contribution/top up and the home is not able to reduce the fees, it will be necessary for the customer to move to an alternative care home at a reduced cost with a reduced third party contribution which I can afford or a care home at Derby City Council’s standard fee rates with no third party.
* I understand that the third party contribution may change if the home changes the fees.
* I also understand if the home changes the fees and I am unable or unwilling to pay the increased top up payments, the home can end the placement giving 28 days’ notice. In these circumstances, it will be necessary for the customer to move to an alternative care home at a reduced cost with a reduced third party contribution or a care home at Derby City Council’s standard fee rates with no third party contribution.

* I confirm that I understand the information provided about the third party/top up which explains the agreement that I am entering into for the payment of the third party contribution/ top up.
* I know that the third party contribution/top up is a separate and additional payment to the charge the customer makes from their income and capital under the Care and Support (Charging and Assessment of Resources) Regulations.
* I understand that debt recovery action may be taken against me if I fail to pay the third party contribution or top up.
* I understand that I will receive a copy of this declaration.

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| Signed: Dated: |
| Name: Relationship to customer:  |
| Address for correspondence: |
| Telephone number:**Agreement to third party or top up (continued)** |

**Customers with property only**

I would like the top up to be deferred after the first 12 weeks of long term care \* Yes/No

\*Please cross through the one that does not apply.

**Privacy notice**

**How is your information used?**

The information we collect will be used to manage the collection of your contributions towards residential or nursing fees.

**Who will your information be shared with?**

The information you provide may be shared with other professionals who may be involved with you for the same or similar purposes.

For further information about how your personal information will be used, please visit [www.derby.gov.uk](http://www.derby.gov.uk) where you can see a full copy of our Privacy Notice.  Alternatively you can request a hard copy from a member of staff, or from the Contact Support Team, Business Support, Derby City Council, Council House, Derby DE1 2FS. Email: contact.support@derby.gov.uk Tel: 01332 640825