

Darc Date: 1st September 2019
 Agreement: «Service_Bracket»
 Mosaic ID: «Service_User_ID»
 NHS Number:

This INDIVIDUAL PLACEMENT AGREEMENT is made between:

THE CORNWALL COUNCIL of New County Hall, Treyew Road, Truro, Cornwall TR1 3AY (the 'Council');

OR

NHS KERNOW CLINICAL COMMISSIONING GROUP of Sedgemoor Centre, Priory Road, St Austell, PL25 5AB (the 'NHS')

and

«Name» Company Registration No. «Company_Register_Number» of «Registered_Address» (the 'Care Home Provider'); and

«name1» of «Care_Home» (the Person')

Each a 'Party' and together the 'Parties'

This Individual Placement Agreement is made on behalf of the following individual:

Name	«name1»
Date of Birth	«DOB»
Care Home Address	«Care_Home»
Placement Category - Care Home without Nursing - Care Home with Nursing	«Service_Bracket»
Placement Duration - Permanent Placement - Temporary Placement - Short Term Placement	Permanent
Admission Date	1 st September 2019
For Short Term/Respite Placement only	
For Temporary Care only	End Date:

1. Definitions

'Access Team' means the single front door for accessing help and advice about social care for adults, which can be contacted on 0300 1234 131

'Admission Date' means the date that the Person is admitted to the Care Home;

'Care' means the care provided by the Care Home Provider to the Person in accordance with the Specification and their Care and Support Plan;

'Care and Support Plan' means a care and support plan assessed by the Commissioner as being appropriate to meet the Eligible Needs of the Person;

'Council's Contribution' means the contribution which is calculated as part of a Person's Financial Assessment to be payable by the Commissioner to the Care Home Provider towards the Fees;

'Eligible Needs' means the assessed health and social needs of the Person as being assessed by the Commissioner as set out in the Persons Care and Support Plan;

'Fees' means the fees set out in Schedule 1, which shall be payable by the Commissioner to the Care Home Provider for the provision of the Care Home Services to a Person. For Placements commissioned by the Council, this shall include the Council Contribution and if relevant, any Person Contribution, any Third Party Top Up and/or any Health Contribution but shall not include any FNC Contribution. If the Person is eligible for FNC this will be paid to the Provider by the NHS directly;

'Financial Assessment' means the financial assessment undertaken by the Council in respect of the Person in accordance with the Care Act 2014

'FNC Contribution' means the contribution paid by the NHS direct to the Care Home Provider for Funded Nursing Care where the Person has been assessed as eligible;

'Funded Nursing Care' means NHS-funded nursing care which is provided to a Person by a registered nurse employed by the Care Home. The NHS will pay a flat rate contribution directly to the Care Home Provider.

'Individual Placement Agreement' or **'IPA'** means these terms and conditions and the schedules attached hereto;

'Initial Period' means the period of 28 days from the Admission Date;

'Health Contribution' means the contribution paid by the Council to the Care home Provider on behalf of the NHS for the care provided to a Person in respect of their specific health needs which for the avoidance of doubt shall not include the FNC Contribution.

'NHS' means the National Health Service in England and includes any NHS body involved in the commissioning of the Care.

Other Services' means the provision of any services/goods provided to the Person by the Care Home at the Persons request, which shall include but not be limited to hair dressing, toiletries, chiropody, alcoholic drinks, legal advice, private travel, holidays, social; activities not provided by the Care Home Provider etc. These Other Services are non-essential truly optional services which the Care Home Provider is not expected to provide under the Services Agreement or this IPA.

'Services Agreement' means the NHS Short Form Care Home Contract between the Council, the NHS and the Care Home Provider dated «Date_contract_completed» and shall include any additions or amendments thereto;

'Person' means the person directly receiving the Care as named above;

'Person's Contribution' applies to Council commissioned Placements only and means the amount assessed as being payable by the Person towards the Fees;

'Personal Data' means any information relating to an identified or identifiable natural person, which shall include but not be limited to the contents of this IPA.

'Persons Representative' means the Persons legally appointed representative who has been appointed under statute to manage the Persons property and financial affairs

'Placement' means a place in the Care Home for the Person which is commissioned by the Commissioner;

'Placement Review Meeting' means a meeting to be held in accordance with clause 6.1.6 between the Commissioner and the Care Home Provider to review whether the Care Home is suitable for the Person;

'Reassessment Request' means a request by the Care Home Provider, the Person, the Person's Representative to the Commissioner for the Commissioner to take a reassessment of the Person's Eligible Needs;

'Short Term Placement' means a fixed term Placement which has been arranged to provide and short break or respite care for the Person;

'Specification' means the specification attached to Schedule 2A of the Service Agreement;

'Temporary Placement' means a temporary placement for a Person where there is a clear intention for the Person to return to their home but for various reasons, the Person is unable to return to their own home for a period of time;

'Third Party Top Up' applies to Council Placements only and means the contribution made by a third party in accordance with a Third Party Agreement for more expensive preferred

accommodation which exceeds the Councils Contribution and if relevant any Person Contribution, and/or any Health Contribution as a result of meeting the expressed choice of the Person;

'Third Party Agreement' applied to Council Placements Only means the agreement entered into between the Council and the Third Party in respect of the payment of any Third Party Top Up;

'Variation Request' means a written request by a Party to the other Parties requesting a variation to the terms of this IPA.

2. Start and Duration of Individual Placement

- 2.1 The Placement shall start on the Admission date.
- 2.2 The Parties agree that the Placement shall continue until the Person leaves the Care Home in accordance with clause 5 of this IPA.
- 2.3 The Care Home Provider shall not move the Person to another bedroom in the Care Home or to another accommodation unless an emergency necessitates it, where it is necessary for the safety of a Person, or if the Person's and/or where appropriate the Person's Representative prior written consent is obtained.

3. Services to be provided

- 3.1 The Care Home Provider shall be bound by its obligations set out in the Services Agreement.
- 3.2 Information about the Person's particular needs have been provided to the Care Home Provider by the Commissioner and are set out in the Person's Care and Support Plan, a copy of which is attached to this IPA.
- 3.3 The Care Home Provider shall provide the Care in accordance with this IPA, the Services Agreement, the Specification and the Person's Care and Support Plan.
- 3.4 The Parties shall at all times comply with their respective obligations as set out in this IPA, the Services Agreement, the Specification and in accordance with the Persons Care and Support Plan.

4. Individual Placement Charges

- 4.1 The Commissioner shall pay the Care Home Provider the Fees in accordance with the payment provisions set out in the Services Agreement.

- 4.2 If relevant, the Person shall pay the Person Contribution to the Council
- 4.3 The Care Home Provider shall enter into a separate arrangement with the NHS regarding payment of any FNC Contribution and the Care Home Provider accepts that the Council shall not make any payment to the Care Home Provider in respect of any Funded Nursing Care.
- 4.4 If relevant, the Third Party shall pay the Third Party Top Up direct to the Council in accordance with a Third Party Agreement.
- 4.5 The Care Home Provider may charge the Person for any Other Services which the Person has requested. Any fees for these Other Services shall be agreed between both the Care Home Provider and the Person in advance. Any charge for any Other Services shall be paid through a private arrangement between the Care Home Provider and the Person or the Persons Representative. In no circumstances shall the Commissioner be liable for payment of any Other Services.

5. Termination

A Placement may be terminated in the following circumstances:

5.1 Short Term Placements:

Where a Placement has been made for a fixed period this Placement will end on the expiry of the fixed period set out above. The Parties can agree to extend the fixed period by agreement in writing. If a Party wishes to terminate the Short Term Placement before the expiry of the fixed period, it may serve notice to terminate in accordance with clauses 5.3 or 5.4 below.

5.2 Temporary Placements

Where a Temporary Placement has been made this Placement will either end in accordance with the End Date set out above or end in accordance with clauses 5.3 or 5.4 below.

5.3 During the Initial Period – long term placements

Subject to clause 5.5 during the initial four (4) week period, the Commissioner, the Care Home Provider or the Person (or the Person's Representative), may end the Placement by giving written notice to the other Parties. Such notice will take effect upon the expiry of seven (7) days or on such date as is agreed between all the Parties. During the notice period the Commissioner and if relevant the Person and Third Party shall continue to be liable for their financial contribution. The Care Home Provider agrees that the departure of

the Person from the Care Home will be conditional on the Commissioner securing suitable arrangements for the future care of the Person unless clauses 5.9 or clause 5.10 applies.

5.4 After the Initial Period – long term placement

Subject to clause 5.5 and after the Initial Period has lapsed, any Party may end the Placement by giving twenty eight (28) days' notice or on such date as agreed by all of the Parties. During the notice period the Commissioner and if relevant the Person and Third Party will continue to be liable for their financial contribution. The Care Home Provider agrees that the departure of the Person from the Care Home will be conditional on the Commissioner securing suitable arrangements for the future care of the Person unless clauses 5.9 or 5.10 applies.

5.5 Termination of more than one IPA

Where the Care Home Provider wishes to terminate more than one IPA within a twenty eight [28] day period for the purposes of closing the Service in whole or in part or amending the status of the Service registration with the CQC the Care Home Provider shall give three [3] months written notice to the Commissioner in respect of any subsequent termination of an IPA unless the Care Home Provider obtains the Commissioner's prior written consent.

5.6 Mutual Agreement

The notice periods set out in this clause 5 may be waived or extended if agreed by all of the Parties

5.7 Death of the Person

If the Person dies during the Placement, the Placement will end on the day of death.

5.8 A request by the Person to leave the Care Home on a Permanent basis

5.8.1 If a Person wishes to leave the Care Home on a permanent basis (i.e. move to an alternative care home or with family) the Person must serve notice on the Care Home Provider and the Commissioner in accordance with clause 5.3 or 5.4 of this IPA.

5.8.2 If after receiving such notice the Commissioner determines on the basis of an investigation supported by documentary evidence that the Care Home Provider has failed to materially comply with the IPA and/or the Services Agreement, no notice shall be required and the Commissioner shall pay the Care Home Provider the Fees for the Care only whilst the Person remains resident at the Care Home;

5.8.3 If the investigation has confirmed that the Person's request to transfer does not relate to any Material Breach of the IPA or the Services Agreement on the part of the Care Home Provider, the Commissioner shall give the Care Home Provider the notice required under clauses 5.3 or 5.4.

5.9 Care Home can no longer meet the needs of the Person

5.9.1 If either the Commissioner and/or the Care Home Provider reasonably consider that either:

- (i) The Care Home can no longer meet the needs of the Person because the Person's condition has deteriorated irreversibly to the point where the care required is beyond that which the Care Home Provider is able to provide;
- (ii) The Person has improved to the point where they no longer require the level of care given by the Care Home Provider; or
- (iii) The Person's condition or behavior is having a persistent and detrimental effect on the well-being of other people resident in the Care Home

that Party may by written notice require that a Placement Review Meeting be held as soon as practicable and in any event within Ten [10] Days following receipt of that notice by the other Party.

5.9.2 The Commissioner and the Care Home Provider shall agree on the appropriate action to be undertaken at the Placement Review Meeting taking into account the Person's best interests at all times.

5.9.3 If at the Placement Review Meeting, it is determined that the Placement is no longer suitable for the Person, the Placement shall be terminated within 28 days of receipt of the notification in clause 5.9.1 or at a date to be agreed by the Parties. The Commissioner shall pay the Care Home Provider the Fees for the Care provided whilst the Person continues to be resident at the Care Home and will cease payment immediately once the Person leaves the Care Home. For the avoidance of doubt the Commissioner shall pay the Care Home Provider for the day prior to transfer.

5.9.5 The Care Home Provider shall permit the Commissioner at all times on reasonable notice access to the Care Home in order to carry out any reassessments of any Person whether this has been requested by the Care Home Provider, the Person, a Third Party or where it is a regular follow up assessment.

5.10 Non-payment applies to Council Placements only. The Person may be required to move rooms within the Care Home or leave the existing Care Home and be placed in an alternative Care Home by the Council if:

- (i) the Person Contribution is more than Eight [8] weeks in arrears; or
- (ii) the Third Party Top Up remains unpaid for Eight [8] weeks or more.

5.11 Breach

The Commissioner may terminate this IPA if any of the provisions listed in clause 33.6(Termination for Breach) of the Services Agreement occurs or if the Care Home Provider commits a material breach of its obligations under this IPA.

5.12 Termination of the Agreement

This IPA will terminate with immediate effect if the Services Agreement is terminated for any reason.

5.13 Termination due to Financial Eligibility

This IPA shall terminate if the Person's financial eligibility changes and they are no longer eligible for receipt of the Council Contribution. In these circumstances the IPA will terminate and the Care Home Provider and the Person shall enter into a separate agreement for the provision of Care.

5.14 Termination due to Change of Commissioner

This IPA shall terminate immediately if following a change in a Person's Eligible Needs, the NHS shall become the body responsible for commissioning the Persons Care.

Consequences of Termination

5.15 In the event that the Care Home Provider is found to be in breach of this IPA and the IPA is subsequently terminated by the Commissioner, the Commissioner will discuss the particulars with the Person and the Person's Representative with a view to finding alternative accommodation for the Person. Such termination shall not take effect until acceptable arrangements have been made for the Person.

5.16 If this IPA is terminated in accordance with clause 5.11 above, the Commissioner shall have the right to exercise any of the rights provided for in clause 34 (Consequences of Termination) of the Services Agreement.

- 5.17 If any of the Parties fail to provide the requisite notification as set out in this clause 5 then such Party shall be responsible for paying to the other Party the full notice period or number of outstanding days remaining, unless agreed in writing between the Parties.
- 5.18 Termination of this IPA shall not result in termination of the Services Agreement.

6 Temporary Absences from the Care Home

- 6.1 The Commissioner shall have the right to terminate the Placement immediately where a Person becomes absent from the Care Home for a continuous period of more than forty two (42) days in the case of hospitalisation or in the case of any such other period as agreed between the Care Home Provider and the Commissioner. For the avoidance of doubt, the Parties shall continue to pay their respective contributions for the Placement during these periods.
- 6.2 The Parties agree that they shall not re-let or otherwise use the Persons allocated room during any absence without prior consent of the Person or the Person's Representative.
- 6.3 In the event that the Person is hospitalised, should there be no change in need the Care Home shall make arrangements to accept that Person the same day they are assessed for discharge.

7. Variations

7.1 Variations to the Care Required

- 7.1.1 If either the Care Home Provider or the Commissioner consider that a Person has a change in need (including but not limited to an increase or decrease in the level of Care required) the Care Home Provider shall contact the Council's Access Team or the NHS Locality Team and make a Reassessment Request.
- 7.1.2 On receipt of the Reassessment Request, the Commissioner shall undertake a reassessment of the Persons Eligible Needs (a 'Reassessment'). If following the Reassessment the Commissioner determines that there is a change in need, a new Care and Support Plan will be produced and annexed to this IPA.
- 7.1.3 If following the Reassessment the Commissioner determines that there is a change in need the Fees may be amended accordingly by agreements between the Parties. The Commissioner will pay the agreed amended Fees and any agreed increase in Fees will be backdated to the date the Care Home Provider formally notified the Commissioner of the change in need.

7.2 Other Variations not relating to a Persons Eligible Needs

7.2.1 Any Party may serve a Variation Request on the other Parties.

7.2.2 Where a Variation Request is issued, the Parties shall enter into good faith negotiations for a period of not more than Fourteen (14) days from the date of the Variation Request with a view to reaching agreement on the proposed variation.

7.2.3 No variation to this IPA will be valid or of any effect unless agreed in writing by the Parties. All agreed variations shall form an addendum to this IPA.

8. Data Protection

8.1 The Person acknowledges and accepts that the Care Home Provider and the Commissioner will hold Personal Data.

8.2 The Commissioner and the Care Home Provider will comply with data protection law and principles, which means that your data will be:

8.2.1 Used lawfully, fairly and in a transparent way.

8.2.2 Collected only for valid purposes that we have clearly explained to you and not used in any way that is incompatible with those purposes.

8.2.3 Relevant to the purposes we have told you about and limited only to those purposes.

8.2.4 Accurate and kept up to date.

8.2.5 Kept only as long as necessary for the purposes we have told you about.

8.2.6 Kept securely.

8.3 The Commissioner and the Person shall use the Personal Data to provide the Care in accordance with this IPA and the Services Agreement.

8.4 The Commissioner and the Person will only share the Personal Data for the purposes of providing the Care in accordance with the terms of this IPA and the Services Agreement. This may include but will not be limited to:

8.4.1 any third party supplier who the Person may be transferred to or from the Care Home Provider;

8.4.2 any third party supplier which may be providing care to the Person at the same time as the Care Home Provider; and

8.4.3 Primary, secondary and social care.

8.5 The Commissioner and the Care Home Provider shall require any third party to take appropriate security measures to protect your personal information in line data protection legislation. The Commissioner and the Person will not allow any third parties to use Personal Data for their own purposes. The Commissioner and the Person shall only permit third parties to process Personal Data for specified purposes and in accordance with its instructions.

8.6 The Commissioner and the Care Home Provider shall retain the Personal Data for a period of Six (6) years or as long as required by Law and/or Guidance following termination of this IPA

8.7 The Commissioner and the Care Home Provider acknowledges that the Person shall have the right to:

8.7.1 object to processing of Personal Data that is likely to cause, or is causing, damage or distress;

8.7.2 prevent processing for the purpose of direct marketing;

8.7.3 in certain circumstances, have inaccurate Personal Data rectified, blocked, erased or destroyed; and

8.7.4 claim compensation for damages caused by a breach of the Data Protection regulations Request access to their Personal Data;

8.8 If the Person has a concern about the way the Commissioner and/or the Care Home Provider are collecting or using Personal Data, the Person should raise any concerns with the Commissioner and/or the Care Home Provider in the first instance or directly to the Information Commissioner's Office.

9. Miscellaneous

9.1 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of this IPA or the Services Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of this IPA or the Services Agreement.

- 9.2 This IPA shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the Contractual relationship expressly provided for in this IPA. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 9.3 If any provision of the Agreement is by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.
- 9.4 Any rights of any person who is not a party to this IPA to enforce the terms of this IPA pursuant to the Agreements (Rights of Third Parties) Act 1999 are excluded.

10. Governing Law & Jurisdiction

This IPA shall in all respects be construed and interpreted in accordance with the laws of England and Wales and the English courts shall have exclusive jurisdiction to settle any disputes which may arise between the Parties out of or in connection with this IPA. This IPA and the Services Agreement constitutes the complete contract for the provision of the Care and supersedes all other written understandings and agreements for the Care.

I, the Care Home Provider agree to comply with all of the Care Home Provider's obligations set out in this IPA and the Services Agreement.

I, the Authorised representative of the Council OR NHS agree to comply with all of the Commissioner Obligations set out in this IPA and the Services Agreement.

I, the Person accept a place in this Care Home, subject to the conditions stated in this IPA.

I understand and agree that for the Initial Period, I can terminate my Placement on Seven [7] days written notice.

I understand and agree that following the Initial Period of 28 days, I can terminate my Placement on Twenty Eight [28] days written notice.

If relevant, I understand and agree to pay the Person Contribution to the Council.

I understand that the Care Home Provider and/or the Council may terminate my Placement, if I fail to pay any required Person Contribution for longer than Eight [8] weeks.

I understand and agree to pay the costs of any Other Services provided to me by the Care Home.

I agree to notify the Commissioner of any substantive financial changes.

Person’s signature only required for Council placements (not applicable for NHS)

I understand that I am able to contact both the Commissioner and the Care Home Provider if I have any questions and/or concerns regarding my Placement.

..... (signature) (print)

The Person
Or

..... (signature) (print)

The Persons Representative signing on behalf of the Person

..... (signature)(print)

The Council’s /NHS Authorised Officer

.....
The Care Home Authorised Signatory

Name	
Address	
Occupation	

Schedule 1 – Schedule of Financial Arrangements

Name of Person: «name1»

Address of Person: «Care_Home»

Care Home name: «Care_home_name»

Commissioner ID.....

Fees

Payment arrangements by agreement

1. The Commissioner shall pay the Care Home Provider the Fees of:

£«Rate_agreed» per week

For care provided for and from the Admission Date. This Fee will include the gross Fee agreed between the Council and the Care Home Provider and will incorporate any Person’s Contribution and Third Party Top Up.

Payment will cover 4 week periods, 2 weeks in arrears and 2 weeks in advance of the set dates, except for the initial payment for such stays which may not fall within this sequence.

Payment against a programme of care over non-defined dates (as identified in the Schedule of Respite Care) will be released in retrospect against invoices issued by the Provider.

The Financial Assessment shall be reviewed annually or as required. The level of the Council Contribution and if applicable, the Persons Contribution, and the Third Party Top Up will be reviewed following any subsequent Financial Assessment.

Schedule 2 – Schedule of Daily Care Hours Tier 4 ONLY

Name of Person: «name1»

Address of Person: «Care_Home»

Care Home name: «Care_home_name»

Commissioner ID

Care Hours

The Care Home Provider will provide direct care and support for the Person to include:

Daytime Support Per Day			Night Time Support Per Day	
Shared Support Day	Dedicated Support Day	Time Away Unsupported Day	Shared Support Night	Dedicated Support Night
1:2 @ XX hours	1:1 @ XX hours 2:1 @ XX hours	XX hours	1:2 @ XX hours	1:1 @ XX hours

This Schedule confirms the commissioned contracted hours of care to be provided for the Person on a daily basis by the Care Home Provider.