

Individual Decision

The attached report(s) will be taken as
Individual Portfolio Member Decision(s) on:

Monday, 30th March, 2015

Ref:	Title	Portfolio Member(s)	Page No.
ID2958	Charging Policy	Councillor Keith Chopping	3 - 72



This page is intentionally left blank

Individual Executive Member Decision

Title of Report:	Charging Policy
Report to be considered by:	Individual Executive Member Decision
Date on which Decision is to be taken:	30 March 2015
Forward Plan Ref:	ID2958

Purpose of Report: To review the policy to ensure we are compliant with the Care Act

Recommended Action: Accept changes to the format

Reason for decision to be taken: Introduction of the Care Act

Other options considered: none

Key background documentation: Current charging policies and revised policy

Portfolio Member Details	
Name & Telephone No.:	Councillor Keith Chopping - Tel 07825 733280
E-mail Address:	kchopping@westberks.gov.uk
Contact Officer Details	
Name:	Jo England
Job Title:	Service Manager - Client Financial Services
Tel. No.:	01635 519006
E-mail Address:	jengland@westberks.gov.uk

Implications

Policy:	Merging of existing policies into one policy due to the implementation of the Care Act. This new policy has no impact on how individuals are financially assessed.
Financial:	None
Personnel:	None
Legal/Procurement:	The Care Act replaces previous charging legislation
Property:	None
Risk Management:	None

Is this item relevant to equality?	Please tick relevant boxes	Yes	No
Does the policy affect service users, employees or the wider community and:			
• Is it likely to affect people with particular protected characteristics differently?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to an area with known inequalities?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at http://intranet/EqIA			<input checked="" type="checkbox"/>
Not relevant to equality			<input type="checkbox"/>

Consultation Responses

Members:

Leader of Council:	N/A
Overview & Scrutiny Management Commission Chairman:	Task Group worked on revised policy
Ward Members:	N/A
Opposition Spokesperson:	Councillor Roger Hunneman (part of the OSM task group)
Local Stakeholders:	N/A
Officers Consulted:	Jenny Matheson, Zoe Whittington, Tandra Forster & Rachael Wardell
Trade Union:	N/A

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
---	-------------------------------	---

If not subject to call-in please put a cross in the appropriate box:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months

Item is Urgent Key Decision

Report is to note only

Supporting Information

1. Background

- 1.1 Prior to 1 April 2015 the legislation for determining charging for care was set out as follows
- 1.2 Where residential care was provided contributions were assessed within the framework of the National Assistance (Assessment of Resources) Regulations 1992 and the Charging for Residential Accommodation Guide (CRAG) issued by the Department of Health. The Council applied these rules to people in permanent residential care.
- 1.3 Where care was provided in a non-residential setting or respite care in a residential setting, contributions were assessed within the framework of the National Assistance (Assessment of Resources) Regulations 1992 and the Fairer Contributions Guidance issued by the Department of Health.

2. Charging Policy

- 2.1 In December 2014 the Department of Health issued statutory guidance to Councils on charging for all types of care as part of the Care Act 2014, this is entitled The Care and Support (Charging and Assessment of Resources) Regulations 2014.
- 2.2 These new regulations replace the previous charging legislation but do not change the way in which an individual is financially assessed.

3. Equalities Impact Assessment Outcomes

- 3.1 The new policy does not change the way in which individuals are financially assessed so there will be no detrimental impact on individuals. The change is due to new legislation.
- 3.2 Department of Health guidance advised there was no requirement for consultation.

4. Conclusion

- 4.1 Accept the new policy.

Appendices

Appendix A – Guidance from the Department of Health

Appendix B – Charging Policy 2015

Appendix C – Fairer Contribution Policy 2014

Appendix D – Residential Charging Policy 2014

Appendix E – Equalities Impact Assessment

Department of Health – Briefing Note

Implementing the Care Act: do councils need to consult locally?

This note sets out general principles to consider when a council is deciding whether to carry out a local consultation process in relation to how it intends to discharge functions under the Care Act.

This does not constitute formal guidance or advice, but is intended to set out certain points to consider in adopting an approach. The need to consult will depend on a number of factors and the decision on whether to consult is ultimately one for councils to take. Councils should always seek their own legal advice if there is any uncertainty as to whether consultation is required.

The note does not comment on the nature of public consultations (approach, length etc.), but only whether a consultation may be necessary. Councils will have established processes to ensure that consultations are adequate and sufficient.

Issues to consider

The following four questions are intended to address some of the principles to consider:

- *Is this a statutory requirement?*

A council would only usually be expected to consult locally where it is using its discretion in relation to the exercise of a particular function. Where the council is required by a statutory duty to perform a particular function, it is likely that further local consultation will not be necessary (unless there is a statutory duty to consult).

However, whilst the Care Act (and regulations) place duties on councils to do certain things, there is much discretion around *how* those functions are performed. For example, there is a duty to carry out an assessment, but discretion as to many of the aspects of how that assessment is undertaken. Where a council makes proposals for how a function should be carried out, then it may be necessary to consult on those proposals, depending on the answers to the questions below.

The Care Act also provides a number of broad powers for councils to carry out certain functions. Where a council chooses to exercise those powers, it may similarly be necessary to consult on how it intends to do so.

- *Is anything actually changing?*

The Care Act consolidates and updates over six decades of adult social care law. In discharging functions under the Act, therefore, councils will often be carrying out functions similar to existing ones and continuing practice that has been long-established.

It is possible that exercising a power under the Care Act will have no effect on the status quo, and where this is the case, the council may not be expected to consult locally. For example, if a council exercises its power under Section 14(1) of the Act to charge for residential care, this will be no change to the previous requirement to do so under the National Assistance Act 1948. Such a decision on its own should not normally trigger a need to consult, unless the circumstances fall within the paragraphs below.

- *To what extent are people affected?*

If the council proposes an approach that does lead to a change in policy (or is a new policy), then the need to consult locally may be triggered depending on the nature of the expected impact on people using services, carers or others, and on whether the council has promised that particular aspects of its practices will change (e.g. charging will stop) or not change.

Where the proposals impact negatively on individuals, it is likely that the council would be expected to consult locally. For example, if a group is identified as being likely to be worse

off as a result of the change (for example in terms of outcomes, services or finances), consultation would normally be expected.

If effect of the proposal is only to create “winners” – i.e. people who benefit – then it may not be necessary to consult, subject to the answer to the fourth question below.

If the council has promised that it will not change particular aspects of its practice and it proposes to do so, or if it has promised to make particular changes and it intends not to make those changes, this might give rise to a duty to consult.

- *Has the council committed to consultations in the past?*

If the council has committed to consult locally in relation to a particular issue or group, then it would normally be expected to do so, irrespective of the answers to the questions above. Some councils may have standing procedures for consultation and commitments (e.g. by way of an express promise) to consult on issues regardless of other circumstances. In other cases, councils may have established an expectation around local consultation through regular practice, even in the absence of a formal commitment. In such cases where a parallel can be drawn between implementing the Care Act and previous practice on local consultation, councils should take legal advice if they propose not to follow established practice or earlier undertakings.

Adult Social Care Charging Policy

Document Control

Document Ref:		Date Created:	March 2015
Version:	1	Date Modified:	
Revision due	March 2016		
Author:	Jo England	Sign & Date:	
Owning Service	Care Commissioning, Housing & Safeguarding		
Equality Impact Assessment: (EIA)	Date undertaken:	March 2015	
	Issues (if any):		

Chief Executive	Sign & Date:	
Corporate Director (Community Services)	Sign & Date:	
Corporate Director (Children & Young People)	Sign & Date:	
Corporate Director (Environment)	Sign & Date:	

Change History

Version	Date	Description	Change ID
1	March 2015	New Policy due to the Care Act	
2			
3			



Contents

Glossary	3
Purpose	4
Applicability	4
Policy	4
Implementation	4
Roles and Responsibilities	4
Failure to comply with WBC Charging Policy	4
Review	5
1. Introduction.....	6
2. Contribution Principles	6
3. Charges other than in a care home	7
4. Types of Non-residential Services.....	7
5. The Financial Assessment: non-residential services	8
6. Charges in a care home	14
7. The Financial Assessment: charges in a care home.....	15
8. Common issues for all care settings	20
9. Debt Recovery.....	21
10. Review of Financial Circumstances	21
11. Annual Review	22
12. Challenges to Financial Assessments.....	22
13. Independent Living Fund.....	23
14. Privacy.....	23
15. Equality Impact.....	23
Appendix 1 Example Contribution Calculations	24
Appendix 2 Equity Release Scheme	26
Appendix 3 Disability Related Expenditure – guide amounts.....	27
Appendix 4	29

Glossary

Basic Income Support refers to the basic level of Income Support or guarantee level of pension credit (for people over pensionable age). The amount considered 'basic' is determined annually by the Department of Work and Pensions.

Capital Thresholds levels are set by Government and reviewed annually. A person with capital above the upper threshold will be deemed to be able to afford the full cost of their care. Any capital below the lower threshold will be disregarded.

Care Home refers to either a residential home, nursing home or residential college.

Community Support is support to access the community.

Couple Minimum Income Guarantee is the couple rate of basic Income Support or Pension Credit plus a buffer of 25%.

Day Care Services are for the elderly and people with disabilities and offer a range of activities and college tutored courses.

Deferred Payment is a means of delaying the cost of care and support until a later date.

Direct Payments are payments made to a person to allow them to arrange their own support needs rather than services being provided directly by the Council

Guarantee Credit (Pension Credit Guarantee) Replaced Income Support for people over pensionable age. If your income is below a certain level, the guarantee credit makes up the difference.

Income Support A benefit for people with a low income. It can be paid on its own if you have no other income or it can top up other benefits or earnings to the basic amount the law states people need to live on.

Intermediate Care (including reablement) is a coordinated short term care arrangement of up to six weeks to enable people to maximise their level of independence in order for them to remain living in the community.

Personal Budgets are an allocation from the Council to a person eligible for social care support based on an assessment of need. The person can use this allocation in the most appropriate way to meet his support needs, either by deciding what services the Council should provide or, if they would like to obtain the services themselves, by receiving a Direct Payment.

Personal Care (sometimes known as Home Care) services can include for example:

- Intimate personal care
- Prompting to take medication
- Preparation and cooking of food
- Specialised help for service users suffering from specific long term conditions.

Personal Expense Allowance is the level of income set by Government that someone in a care home must be left with after charges have been deducted

Minimum Income Guarantee (MIG) is the level of income set by Government that someone in a non care home setting must be left with after charges have been deducted. Applicable to people who have capital below the upper capital threshold level, the MIG ensures that a person is left with a level of income at least equal to the *basic income support* (explained above) plus a 25% buffer.

Savings Credit (Pension Credit Savings)

For people aged 65 and over, this is intended to reward people who have made provisions for retirement above the basic state pension.

Tariff Income is the where a person with capital between the lower and upper capital level (£14,250 and £23,250 based on the 2014 - 2015 rates) will be deemed as able to make a contribution known as "tariff income" from their capital.

1. **Purpose**

- 1.1 The purpose of this policy is to set out how West Berkshire Council (WBC) will ask people for a contribution towards the cost of the adult social care support they receive and how that contribution will be calculated.
- 1.2 The Chief Executive and Corporate Board have approved the Charging Policy.

2. **Applicability**

- 2.1 This Policy applies to:
 - 2.1.1 Adult Social Care Services.

3. **Policy**

It is the Policy of the Council to ensure that it uses a consistent and fair approach to assessing and collecting contributions. This approach will promote affordable, sustainable support for people who require Adult Social Care Services.

4. **Implementation**

- 4.1 This Policy will be supported and implemented by the development and publication of Standards (requirements), Procedures (how to) and Guidance (advice).

5. **Roles and Responsibilities**

- 5.1 The overall responsibility for charging adults for care within WBC rests within Client Financial Services.
- 5.2 The responsibility for day-to-day management of charging adults for care throughout West Berkshire Council rests with the Head of Care Commissioning, Housing & Safeguarding, who is also responsible for maintaining this Policy, for reviewing all other security policies and procedures and for providing advice and guidance on their implementation.
- 5.3 All managers are directly responsible for implementing this Policy and any sub policies and procedures within their service areas and for the adherence of their staff and others.
- 5.4 All personnel detailed at 2.1.1 have an individual responsibility to adhere to this Policy and any relevant Standards and/or Procedures.

6. **Failure to comply with WBC Charging Policy**

- 6.1 This document provides staff and others with essential information regarding charging and sets out conditions to be followed. It is the responsibility of all to whom this policy document applies to adhere to these conditions.

7. **Review**

7.1 This policy will be reviewed to respond to any changes and at least every 5 years.

7.2 The Service/Committee/Group responsible for reviewing and maintaining this policy is Client Financial Services.

DRAFT

Charging for Adult Social Care Services

1. Introduction

The purpose of this policy is to establish when and how West Berkshire Council will ask people for a contribution towards the cost of the adult social care support they receive. This document covers the following areas:

Sections 2 explains the contribution principles,
Sections 3, 4 and 5 explains how a contribution is calculated in a non care home setting,
Section 6 and 7 explains how a contribution is calculated in a care home,
Section 8 to 15 explains issues that are common to all contributions including what happens if people cannot afford to pay or want to make a complaint as well as containing other relevant miscellaneous information.

Adult Social Care is going through a period of significant change, moving away from “traditional” services always being arranged by the Council following a care assessment towards other means of arranging care and support including a person receiving a Direct Payment to pay directly for support they have chosen. In both cases the Council may require the person receiving support to make a financial contribution and this policy covers both circumstances.

The Council is committed to ensuring it uses a consistent and fair approach to assessing and collecting contributions. This approach will promote affordable, sustainable support for people who require Adult Social Care Services.

2. Contribution Principles

The Council adopts the following over-arching principles to ensure that both the amount of any contribution sought and the manner in which it is paid is fair:

- In order to act reasonably throughout the process the Council will consider the circumstances of each person through an individual financial assessment and on the merits of each case.
- People not living in a care home will be asked to contribute only what they can reasonably afford based on a financial assessment. The financial assessment will ensure that anyone who has capital of less than the upper threshold retains the minimum income guarantee (MIG - see 5.3) before they are asked to make any contribution.
- People living in a care home will be asked to contribute based on a financial assessment. The financial assessment will ensure that anyone who has less than the upper capital threshold retains the personal expenses allowance (PEA – see 7.3) from their income before they are asked to make any contribution.
- Regardless of how support is delivered, the financial assessment will be conducted in the same way.
- In general, contributions will be applied to the total cost of the service funded by the Council for example in the case of a live-in carer. However in some cases, for

example personal care and community support, the contribution will be applied to the average cost incurred by the Council.

- Contributions will not exceed either the cost of the service or a person's Direct Payment (if they receive one).
- Contributions will not normally be required for the cost of the Council's assessment or administration processes for the service provided, except in the case of administration for a person with eligible needs who has assets above the upper capital limit and who has asked the Council to arrange their care and support on their behalf.
- Benefits advice will be available throughout the assessment process to ensure that people have access to their full benefits and entitlements.
- If an appeal is lodged against the assessed contribution, the Council will not refuse or withdraw services which meet a person's assessed needs.
- If invoices for assessed contributions are not paid the Council will follow the principles outlined in the Care Act 2014 in seeking recovery of the debt, including initiating court proceedings where appropriate.

3. Charges other than in a care home

Charges for permanent residential accommodation in a care home are covered in sections 6 and 7. Short-term placements in a care home of less than 56 consecutive nights and residential respite care will be treated in the same way as contributions for non residential support.

4. Types of Non-residential Services

The Council funds a wide range of Adult Social Care services. The following describes what is provided without charge and what might incur a contribution:

4.1 Services Provided Free of Contributions

The Council can not apply any contribution towards:

- Intermediate Care services including reablement provided for a period of up to 6 weeks. If these are in addition to an established (albeit in some cases interrupted) package of support, contributions will continue against the established package. The person's assessment will identify those services provided under Intermediate Care arrangements.
- Community equipment (aids and minor adaptations) including assistive technology and in the case of an adaptation costing less than £1,000. These would be supplied as a result of an assessment. Examples include commodes, stair rails and grab rails.
- Care for sufferers of Creutzfeldt-Jacob Disease.
- After-care services provided under section 117 of the Mental Health Act 1983.
- Any service or part of service that the NHS is under a duty to provide for example Continuing Health care.
- Assessment and care planning services – such as supported self assessment, needs assessment, support planning and care management.

4.2 Services where a contribution will be sought

For most other Adult Social Care services people will be assessed in order to determine whether or not they need to make a contribution towards the service. This includes circumstances in which the service is taken by way of a direct payment. The types of service in this category include but are not limited to:

- Care and support in a person's own home (including the cost of two carers where this is necessary to meet need)
- Support to access the community (Community Support)
- Day Care and Outreach support,
- Transport,
- Employment Support
- Respite care in a residential/nursing home (not exceeding 56 consecutive nights)
- All services arranged within a Direct Payment, including the cost of brokerage services provided outside the Council

4.3 Services Outside of this Charging Policy

The Council provides a number of other support services which are not subject to this policy because they are not care and support services provided under the Care Act including:

- Meals at a Resource Centre. These will be subject to a flat rate charge and although this charge will be added to any weekly assessed contribution it will not be subject to the financial assessment process.
- Issue of Blue Badges

5. The Financial Assessment: non-residential services

5.1 Overview of the financial assessment

5.1.1 A full financial assessment will be undertaken for anyone who receives services for which a contribution can be made, including those who are in receipt of a Direct Payment. This is in order to establish their individual ability to contribute towards the total cost of the services they receive which the Council can charge for.

5.1.2 The financial assessment will ensure that people:

- Have sufficient money to meet their basic housing costs and some disability related expenditure
- Retain their basic "Minimum Income Guarantee". Where their capital is below the upper threshold the MIG is not included in the assessment calculations.

5.1.3 The assessment calculation is summarised as:

Assessable Income (see 5.2)

- Minimum Income Guarantee (see 5.3)
- Housing Costs (see 5.4)
- Disability Related Expenditure (see 5.5 to 5.5.7)
- Other allowable expenses

= Assessed contribution

5.1.4 Where a person has capital this may affect the assessed contribution. This is explained in section 6.8.

5.1.5 The Care Act 2014 states that each person receiving care must be treated individually and that a local authority has no power to assess couple or civil partners

according to their joint resources. The Department of Health has permitted an extension to current couple assessments until April 2016.

5.1.6 The treatment of jointly paid income and capital held in joint names is explained in section 5.9.

5.1.7 The Council has set a minimum contribution, currently £1.25 per week. If an assessed contribution is less than this minimum, no charge will be made as it is not financially viable to collect a contribution below this level.

5.1.8 Examples of calculated contributions are provided at *Appendix 1*.

5.1.9 Where assistance is provided in applying for a benefit, the person will be notified of the effect of the new benefit on their assessed contribution, which will be backdated to the date of award.

5.2 Assessable Income

The assessment process will look at the total income a person has available to make a contribution and will follow the Care Act 2014 and the statutory guidance issued under it.

5.2.1 The income below will **not** be included in the assessment:

Armed Forces Independence Payments and Mobility Supplement

Charitable and voluntary payments made on a regular basis.

Child Support Maintenance Payments and Child Benefit

Child Tax Credit

Christmas bonus

Council Tax Reduction Schemes where this involves a payment to the person

Dependency increases paid with certain benefits

Disability Living Allowance(DLA) (Mobility Component) and Mobility Supplement

Discretionary Trust

Earnings (as per Care Act 2014 guidance.)

Gallantry Awards

Guardian's Allowance

Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme

Income frozen abroad

Income in kind

Night time element of the care component of Disability Living Allowance and Attendance Allowance, unless night time care/support is provided by the Council.

Pensioners Christmas payments

Personal Independence Payment (PIP) (Mobility Component) and Mobility Supplement

Personal injury trust, including those administered by a Court

Resettlement benefit

Social Fund payments (including winter fuel payments)

Statutory Sick Pay, Statutory Adoption Pay and Statutory Maternity Pay or Allowance.

War Disablement Pension or Armed Forces compensation Scheme: Guaranteed Income Payment and War Widows Pension or Armed Forces Compensation Scheme

War widows and widowers special payments

Any payments received as a holder of the Victoria Cross, George Cross or equivalent

Any grants or loans paid for the purposes of education; and

Payments made in relation to training for employment.

Any payment from the:

- a) Macfarlane Trust
- b) Macfarlane (Special Payments) Trust
- c) Macfarlane (Special Payment) (No 2) Trust
- d) Caxton Foundation
- e) The Fund (payments to non-haemophiliacs infected with NW)
- f) Eileen Trust
- g) MFET Limited
- h) Independent Living Fund (2006)
- i) Skipton Fund
- j) London Bombings Relief Charitable Fund.

5.2.2 The sources of income below will only partially be included in the assessment:

- Survivors Guaranteed Income Payment (The first £10 per week will be disregarded)
- Sub tenants – Treatment of any income from sub tenants will be in accordance with the Care & Support (Charging & Assessment of Resources) Regulations 2014 (The first £20 per week will be disregarded)
- Boarders - Treatment of any income from boarders will be in accordance with the Care & Support (Charging & Assessment of Resources) Regulations 2014 (The first £20 per week plus half of any income over £20 per week will be disregarded).

5.2.3 Where a person has assets between the lower and upper capital levels the Council will apply a tariff income (see glossary of terms). This will assume that for every £250 of capital or part thereof, a person is able to afford to contribute £1 per week towards the cost of their support.

5.2.4 If funds have been released using Equity Release Schemes the income may be included in the financial assessment process. Refer to *Appendix 3* for further information.

5.3 Minimum Income Guarantee

Someone whose capital is below the upper capital threshold will retain income equivalent to either basic Income Support or Pension Credit Guarantee level plus 25% as a minimum income which is not included in the assessment calculation. This amount will depend on a persons age and benefit entitlement as per Department of Health guidance.

5.4 Housing Costs

The following household expenditure may be allowed for in the contribution calculation depending on individual circumstances:

- Rent (net of housing benefits)
- Mortgage (net of income support or pension credit assistance)
- Board and lodgings (as defined and managed in The Care Act 2014)
- Council Tax (net of Council Tax Support)
- Building insurance (not including contents)
- Essential service charges and ground rent (net of assistance funding)

5.5 Disability Related Expenditure

5.5.1 Disability Related Expenditure (DRE) is any reasonable additional cost that a person incurs to meet their specific needs due to age, a medical condition or disability. To ensure that the person retains appropriate funding to meet these costs, an allowance for DRE is included in the assessment process where applicable.

5.5.2 Disability related expenditure is not restricted to the national eligibility criteria for care and support prescribed by the Care Act 2014.

5.5.3 DRE will be considered when:

- the extra cost is needed due to age, a medical condition or disability as identified in the person's community care assessment; **and**
- the cost is reasonable and can be verified (receipts will be requested); **and**
- it is not reasonable for a lower cost alternative item or service to be used.

5.5.4 Careful consideration will be given to requests that expenses are accepted as being disability related. Voluntary unpaid support from family and/or friends is not a disability-related expense.

5.5.5 In assessing disability-related expenditure consideration will be given to the following list of items. However, it should also be noted that this list is not intended to be exhaustive and any reasonable additional costs directly related to a person's disability may be considered:

(a) Payment for any community alarm system.

(b) Costs of any privately arranged care services identified as necessary by the care team, including respite care.

(c) Costs of any specialist items needed to meet the person's disability needs, for example:

- i. Day or night care which is not being arranged by the local authority;
- ii. Specialist washing powders or laundry;
- iii. Additional costs of special dietary needs due to illness or disability (the person may be asked for permission to approach their GP in cases of doubt);
- iv. Special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by disability;
- v. Additional costs of bedding, for example, because of incontinence;
- vi. Any heating costs, or metered costs of water, above the average levels for the area and housing type;
- vii. Reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the person's disability and not met by social services;
- viii. Purchase, maintenance, and repair of disability-related equipment, including equipment or transport needed to enter or remain in work; this may include IT costs, where necessitated by the disability; reasonable hire costs of equipment may be included, if due to waiting for supply of equipment from the local council;
- ix. Personal assistance costs, including any household or other necessary costs arising for the person;
- x. Internet access for example for blind and partially sighted people
- xi. Transport costs necessitated by illness or disability, including costs of transport to daycentres, over and above the mobility component of Disability Living Allowance or Personal Independence Payments, if in payment and available for these costs. Where fuel is being claimed the current HMRC business rate mileage will be used. In some cases, it may be reasonable for WBC not to take account of claimed transport costs — for example, if a suitable, cheaper form of transport (e.g. council-provided transport to a daycentre) is available, but has not been used.

As with transport costs (noted at 5.5.4(c)(xi) above) there may be other items of DRE (whether in the above list or otherwise) which the Council will not allow for if there is a reasonable alternative available at a lesser cost. This could include, for example, where an item is available from the NHS – e.g. the private purchase cost of incontinence pads

where these are available from the NHS. The fact of whether there is a reasonable alternative available at a lesser cost will be considered by WBC on a case by case basis taking into account all of the relevant circumstances.

5.5.6 The Council has a schedule of reasonable DRE costs (see *Appendix 4*). This lists the amounts that will be allowed for certain items where a decision is taken to allow a particular item of DRE. These amounts will be reviewed each year in accordance with the National Association of Financial Assessment Officers guidelines.

5.5.7 Where a particular item of expenditure combines more than one item or service, instead of disallowing all of the expenditure the elements that meet the person's specific need can be allowed. For example hair washing is allowed if the person could not do this task themselves and it is not included in the support plan. However, hair cutting would not be allowed for as this is a service used by the general population and is not a disability related expense.

5.5.8 Receipts will be requested in support of all expenses claimed. If receipts have not been kept prior to the initial financial assessment, receipts should be kept in support of future expenses. Receipts or evidence is not required for common expenses, i.e. utilities. The amounts in *Appendix 4* show an average expenditure for various household types. This will be used to calculate the extra costs due to the person's age, medical condition or disability. These amounts will be reviewed annually. If receipts are not provided despite requests to do so then the Council will decide that the expense should not be allowed.

5.6 Special Equipment

Costs for purchasing special equipment (e.g. stair lifts) will be allowed if they meet the person's specific need due to a disability or condition. The amount allowed will be based on the life span of the equipment and the purchase price paid by the person, where this is considered reasonable. This allowance will not apply if the purchase was funded by a Disabled Facilities Grant or any other source of external funding.

Maintenance and repair costs for special equipment will also be allowed if that equipment meets the person's specific need due to a disability or condition. The weekly amount allowed will be the annual cost over 52 weeks.

5.7 Other factors that affect the financial assessment

5.7.1 Shared costs

If more than one person lives in the person's home the additional costs relating to a disability or condition will be shared between the occupants whose needs contribute to the additional costs.

5.7.2 Capital

The value of capital and assets is as defined in the Care Act 2014 and the regulations made under the Act. The value of a person's main or only home will be disregarded.

5.7.3 A person with capital above the Care Act 2014 upper limit (including property but excluding the value of their main home) is liable to pay the full cost for services supplied (or towards a Direct Payment). When a person moves out of a property that they own and becomes ordinarily resident in alternative accommodation, for example, Extra Care Housing, the owned property will no longer be deemed their main home and will be regarded as capital for the purposes of the contribution assessment.

5.7.4 The capital limits will be reviewed annually in accordance with the Care Act 2014.

5.7.5 Deprivation of assets

Deprivation of assets means where a person has *intentionally* deprived or decreased their overall assets in order to reduce the amount that they are charged towards their care. This means that they must have known that they needed care and support and have reduced their assets in order to reduce the contribution they are asked to make towards the cost of that care and support.

5.7.6 There may be many reasons for a person depriving themselves of an asset. The Council will follow the guidance set out in the Care Act 2014 to decide whether deprivation for the purpose of avoiding care and support charges has occurred and whether or not to treat that person as still having the asset for the purpose of a financial assessment.

5.7.7 Where an asset has been transferred to a third party to avoid the charge, that third party is liable to pay the Council the difference between what it would have charged and has charged the person receiving care.

5.7.8 Deprivation of income

It is possible for a person to deliberately deprive themselves of income. For example they could give away or sell the right to an income from an occupational pension. The Council will follow the guidance in the Care Act 2014 to make a decision on whether to treat someone as receiving a notional income in their financial assessment.

5.8 Couples

Only the income of the cared-for person can be taken into account in the financial assessment. However people will be required to identify any income or capital (such as a welfare benefit) that both members of a couple are entitled to jointly.

5.8.1 A couple is defined as follows:

- Two people who are legally married or in a civil partnership
- Two people who have lived together as though they are married or in a Civil Partnership for at least twelve months but who are not legally married or in a Civil Partnership

5.8.2 When assessing one member of a couple:

- 100% of solely owned and 50% of all jointly owned capital and savings will be taken into account (excluding the value of the main home)
- All assessable income appropriate to the cared-for person will be considered
- An allowance will be made for 50% of the couple's total joint basic household expenditure;
- An allowance will be made for the person's Disability Related Expenditure

5.8.3 Implications for the cared-for person's partner:

If the result of the financial assessment would leave the couple with a weekly income of less than the couple rate of basic Income Support or Pension Credit plus a buffer of 25%, an additional allowance will be included in the assessment.

5.8.4 In these circumstances described above a "Couple Minimum Income Guarantee" (see Glossary) allowance will be included in the assessment. In order to calculate the

allowance, which will vary on a case to case basis, the partner must be willing to disclose their financial details.

5.9 Contributions Payable and the Contribution Period

The assessed contribution will apply to any services (non-residential or respite care) provided in each charging week. A charging week starts on a Monday and ends on a Sunday. For example services that run from Wednesday to the following Tuesday will be charged across two charging weeks, except where a person receives only respite care, when the contribution will be apportioned over the number of nights of respite care.

5.9.1 Direct Payments

The following points relate to contributions payable where a person is in receipt of a Direct Payment:

- The contribution payable will be either the amount of the gross personal budget or the assessed contribution, whichever is lower;
- The contribution should be paid from a person's income, therefore the Direct Payment amount will be paid in full and the Council will raise an invoice for a person's contribution;
- Invoices will be raised every twenty eight days in arrears.
- Contributions will apply from the date the personal budget commences.
- Contributions must not be paid from the Direct Payment funds.

5.9.2 Other Services

The following points relate to contributions payable where a person has their support needs met by services organised by the Council after an assessment of need:

- The contribution payable will be either the actual chargeable cost of services supplied or the assessed contribution, whichever is lower
- Invoices will be raised in arrears after every twenty eight day period.
- Where a service was supplied or was available but the person does not receive it because they are absent – for example they are away from their home at the time they are due to receive home care, a contribution will still be required unless the absence has been pre-notified (at least 24 hours in advance to the Council) or is due to hospitalisation, illness or other circumstances beyond the person's control. Where someone believes they should not be required to contribute to a service they should contact their care manager in the first instance.
- Any overpayments will be reimbursed or credited towards the cost of future services.
- Charges will apply from the date the service commences.

6. Charges in a care home

The following sections applies to people who receive care and support in a care home including respite care that exceeds 56 consecutive nights (8 weeks).

Charges for respite care of less than 56 consecutive nights are assessed under the section of the Council's policy for non-residential care (as set out at 3 to 5 of this policy) .

6.1 Services and circumstances where no charge is made

The Council can not apply any contribution towards:

- After-care services under the Mental Health Act (Section 117).
- Any services funded by the local Health Authority under NHS continuing care.

All other residential services will be chargeable, including any residential element funded by community services for placements at a residential college.

7. The Financial Assessment: charges in a care home

7.1 Overview of the financial assessment

7.1.1 People in a care home will contribute most of their income, excluding any earnings, towards the cost of their care and support. The person will, however, be left with a specified amount of their own income, which is known as the personal expense allowance (PEA) (see 7.3 below).

7.1.2 The assessment calculation is summarised as follows:

- Assessable Income (see 7.2)
 - Personal Expense Allowance (see 7.3)
 - Allowable expenses (see 7.4)
- = Assessed contribution

7.1.3 Where a person has capital this may affect the assessed contribution and this is explained in section 7.5

7.1.4 The treatment of jointly paid income and capital held in joint names is explained in section 7.5.

7.1.5 Examples of calculated contributions are provided at *Appendix 1*.

7.1.6 Where assistance is provided in applying for a benefit, the person will be notified of the effect of the new benefit on their assessed contribution, which will be backdated to the date of award.

7.2 Assessable Income

The assessment process will look at the total income a person has available to make a contribution and will follow the Care Act 2014 and the statutory guidance issued under it.

7.2.1 The income below will **not** be included in the assessment:

Armed Forces Independence Payments and Mobility Supplement

Charitable and voluntary payments made on a regular basis.

Child Support Maintenance Payments and Child Benefit

Child Tax Credit

Christmas bonus

Dependency increases paid with certain benefits

Disability Living Allowance(DLA) (Mobility Component) and Mobility Supplement

Discretionary Trust

Earnings (as per Care Act 2014 guidance.)

Gallantry Awards

Guardian's Allowance

Guaranteed Income Payments made to Veterans under the Armed Forces Compensation

Scheme

Income frozen abroad

Income in kind
Pensioners Christmas payments
Personal Independence Payment (PIP) (Mobility Component) and Mobility Supplement
Personal injury trust, including those administered by a Court
Resettlement benefit
Savings Credit disregard
Social Fund payments (including winter fuel payments)
Statutory Sick Pay, Statutory Adoption Pay and Statutory Maternity Pay or Allowance.
War widows and widowers special payments
Any payments received as a holder of the Victoria Cross, George Cross or equivalent
Any grants or loans paid for the purposes of education; and
Payments made in relation to training for employment.

Any payment from the:

- k) Macfarlane Trust
- l) Macfarlane (Special Payments) Trust
- m) Macfarlane (Special Payment) (No 2) Trust
- n) Caxton Foundation
- o) The Fund (payments to non-haemophiliacs infected with NW)
- p) Eileen Trust
- q) MFET Limited
- r) Independent Living Fund (2006)
- s) Skipton Fund
- t) London Bombings Relief Charitable Fund.

7.2.2 The sources of income below will only partially be included in the assessment:

- Survivors Guaranteed Income Payment (The first £10 per week will be disregarded)
- War Disablement Pension/Armed Forces Compensation Scheme and War Widows Pension (the first £10 per week will be disregarded), however any Constant Attendance Allowance paid will be included in full
- Up to 50% of any Private/Occupational Pension where a partner remains at home (although consideration needs to be given to the partners benefits)

7.2.3 Where a person has assets between the lower and upper capital levels the Council will apply a tariff income (see glossary of terms). This will assume that for every £250 of capital or part thereof, a person is able to afford to contribute £1 per week towards the cost of their support.

7.2.4 Where a person is a temporary resident any element of Income Support or Pension Credit that is payable for a partner should not be included and the needs of the partner should be considered so that they are left with the single person's Minimum Income Guarantee (see glossary of terms). Any adjustment to the assessment under these circumstances will be shown as an expense.

7.3 Personal Expense Allowance

Someone whose capital is below the upper capital threshold must retain a personal expense allowance (PEA) from their income for personal items such as clothes and toiletries that are not part of their care. The PEA amount is set out in the charging regulations made under the Care Act 2014 and anything above this prescribed amount may be taken into account in determining charges.

7.3.1 WBC will apply a higher allowance in individual cases in the following circumstances:

- Where a person has a dependent child, the needs of the child should be considered

- Where a person is paying half their occupational or personal pension or retirement annuity to a spouse or civil partner who is not living in the same care home
- Where a person is temporarily in a care home and is a member of a couple (see 7.12.1)
- Where a person's property has been disregarded the local authority should consider whether the PEA is sufficient to enable the person to meet any resultant costs. For example mortgage, rent, Council Tax, building insurance, utility costs and reasonable property maintenance costs.
- Where a person has a deferred payment agreement (DPA) in place, the local authority should ensure that the person retains sufficient resources to maintain and insure the property.

7.4 Allowable expenses

Allowable expenses for temporary residents can include:

- Accommodation cost - rent less Housing Benefit
mortgage less any Housing Support benefit payment
- Service charges - Any charge for housing services not covered by benefit
- Water Rates/Charges
- Council Tax (less Council Tax Reduction)
- Household Insurance
- Partner's MIG - where a person is a temporary resident the needs of the person's partner should be considered so that they are left with the single person's Minimum Income Guarantee. This amount will vary and depend on the partner disclosing their finances during the assessment.

7.4.1 Where the expenditure is a joint expenditure then 50% of the expenditure will be allowed, unless it can be shown that only one person is responsible for 100% of the expenditure.

7.4.2 Permanent residents are not normally considered to have outgoings as they no longer have a home in the community. However, it maybe that a person still has outgoings for example, during the 12 week property disregard period (see 7.9) or during the notice period for a rented property. In these cases the expenses can be allowed.

7.5 Capital

The value of capital and assets is as defined in the Care Act 2014 regulations and guidance. Where capital is held jointly the value will be divided equally unless there is evidence to prove otherwise.

7.5.1 Capital and savings can include cash, funds held in a bank, building society and Post Office accounts, saving bonds, premium bonds, stocks and shares, ISAs, Peps, Value of land or property (other than the home in which they live). This list is not exhaustive.

7.5.2 Any person who has capital/savings in excess of the upper threshold level (see glossary of terms) as set out in the Care Act 2014 will be charged the cost of the service received. If savings/capital is held in joint names, an equal proportion will be assumed unless there is evidence to prove otherwise.

7.5.3 The capital limits will be reviewed annually in accordance with The Care Act 2014.

7.6 Temporary Resident/Trial Period

All temporary residents who are placed for a trial period will be financially assessed from their date of admission but will have allowable expenses included in their assessment.

7.6.1 Temporary residents who are in receipt of Attendance Allowance (AA), Disability Living Allowance (DLA) (Care component) or Personal Independence Payments (PIP) (Daily Living component) will have this benefit disregarded from any financial assessment while they are classed as a temporary resident.

7.7 Permanent Resident

Permanent Residents may be subject to several financial assessments in the first few months of becoming resident. This is due to changes in benefit income which will result in the need for a new financial assessment for each change.

7.7.1 In the first four weeks any element of AA, DLA (care component) or PIP (Daily Living component) and the Severe Disability Premium of Income Support/ Employment Support Allowance/Pension Credit in payment will be included as income in the financial assessment. The Enhanced Disability Premium of Income Support will also be included.

7.8 Property

The treatment of property ownership will be in line with the Care Act 2014.

7.8.1 The value of a person's main or only home will be disregarded in the financial assessment when:

- The person's stay in a care home is temporary and they:
 - i. intend to return to that property and that property is still available to them; or
 - ii. are taking reasonable steps to dispose of the property in order to acquire another more suitable property to return to.
- Where the person no longer occupies the property but it is occupied in part or whole as their main or only home by any of the people listed below, this disregard only applies where the property has been continuously occupied since before the person went into a care home:
 - i. the person's partner, former partner or civil partner, except where they are estranged;
 - ii. a lone parent who is the person's estranged or divorced partner;
 - iii. a relative as defined within the Care Act 2014 of the person or member of the person's family who is:
 - a) aged 60 or over, or
 - b) is a child of the resident aged under 18, or
 - c) is incapacitated

7.8.2 Discretionary property disregard

The Council may also use its discretion to apply a property disregard in other circumstances. However this will be balanced with ensuring that a person's assets are not maintained at public expense. An example of where it may be appropriate to apply the disregard is where it is the sole residence of someone who has given up their home in order to care for the person who is now in a care home or is perhaps the elderly companion of the person. The Council will consider such cases on the individual circumstances of each case.

7.9 12 Week Property Disregard

The Council must disregard the value of a persons main or only home when the value of their non-housing assets is below the upper capital threshold for 12 weeks in the following circumstances:

- When they first enter a care home as a permanent resident; or
- When a property disregard other than the 12 week property disregard unexpectedly ends because the qualifying relative has died or moved into a care home.

7.9.1 The Council has discretion to choose to apply the disregard when there is a sudden and unexpected change in the person's financial circumstances, for example, a fall in share prices or an unanticipated debt. The Council will consider such cases on the individual circumstances of each case.

7.9.2 After 12 weeks any property that has been disregarded will either need to be subject to a continuing disregard where there is a remaining resident as defined in the Care Act 2014 or if the property has not been sold a revised assessment will need to be done and a deferred Payment under the Deferred Payment Scheme will be offered.

7.10 Deferred Payments

In accordance with the Care Act 2014 the Council operates a Deferred Payments Scheme to allow people to defer the sale of their home where it is needed to fund care home fees (see the Deferred Payment Policy).

7.11 Deprivation of assets

Deprivation of assets means where a person has *intentionally* deprived or decreased their overall assets in order to reduce the amount that they are charged towards their care. This means that they must have known that they needed care and support and have reduced their assets in order to reduce the contribution they are asked to make towards the cost of that care and support.

7.11.1 There may be many reasons for a person depriving themselves of an asset. The Council will follow the guidance set out in the Care Act 2014 to decide whether deprivation for the purpose of avoiding care and support charges has occurred and whether or not to treat that person as still having the asset for the purpose of a financial assessment.

7.11.2 Where an asset has been transferred to a third party to avoid the charge, that third party is liable to pay the Council the difference between what it would have charged and has charged the person receiving care.

7.11.3 Deprivation of income

It is possible for a person to deliberately deprive themselves of income. For example they could give away or sell the right to an income from an occupational pension. The Council will follow the guidance in the Care Act 2014 to make a decision on whether to treat someone as receiving a notional income in their financial assessment.

7.12 Couples

A couple is defined as follows:

- Two people who are legally married or in a civil partnership
- Two people who have lived together as though they are married or in a Civil Partnership for at least twelve months but who are not legally married or in a Civil Partnership

7.12.1 Where a person is a temporary resident any element of Income Support or Pension Credit that is payable for a partner should not be included and the needs of the partner should be considered so that they are left with the single person's Minimum Income Guarantee (see glossary of terms). Any adjustment to the assessment under these circumstances will be shown as an expense.

7.12.2 Where a person is a permanent resident for benefit and financial assessment purposes they are treated as individuals.

7.13 Contributions Payable and the Contribution Period

A charging week starts on a Monday and ends on a Sunday. Where a person enters or leaves a care home part way through a week the contribution will be apportioned over the number of nights of care.

7.13.1 Invoices will be raised four weekly in arrears.

7.13.2 Where the person is absent from the care home for a period, for example, in hospital they will still be liable to pay a contribution until the placement is terminated.

8. Common issues for all care settings

8.1 Non disclosure of Financial Details

People have the right to choose not to disclose their financial details. If this right is exercised they will be required to pay the full cost of their care or amount of their Direct Payment.

8.2 Delays in completing the Financial Assessment

8.2.1 The Council will commence the financial assessment process within 3 weeks of Care Management notifying the need for an assessment.

8.2.2 If a person unreasonably delays completing the financial assessment they will be required to pay the full cost of services supplied (or value of their Direct Payment) until a financial assessment is completed. If a financial assessment results in a lower contribution than this, consideration will be given to refunding the difference depending on the circumstances of the case.

8.2.3 'Unreasonable delay' will be determined on a case by case basis, however as a general rule the Council will expect a person or their representative to be available for a visit within 2 weeks of contact from the Welfare Benefit team. Where the person or their representative prefers to complete the financial statement by post, it is expected that this will be returned to the Council within 2 weeks. If further information is required for the financial assessment then it is expected that the person will provide this within 2 weeks of the date it was requested.

8.2.4 If the person concerned cooperates with the assessment within 28 days of service commencement, any reduction in contribution will be reimbursed or credited against future service costs.

9. Debt Recovery

New powers are provided under section 69 of the Care Act 2014 that provides equal protection to both the Council and the person receiving care in the recovery of unpaid care charges.

9.1 The Council will discuss with the person or their representative at the outset that care and support is a chargeable service and that where the person has been assessed as being able to do so, they will be required to contribute towards the cost of the care.

9.2 As a first step, the Council will contact the person or their representative in an effort to ascertain why the contribution towards their care and support costs has not been made.

9.3 Where a person has capacity to make financial decisions, the Council can proceed to the County Court if an agreement regarding settlement of the debt cannot be reached.

9.4 Where a person lacks capacity to make financial decisions and has an attorney or a deputy for property and financial affairs the Council will negotiate with the attorney or deputy including if appropriate, taking legal action through the County Court.

9.5 Where a person who lacks capacity to make financial decisions has no attorney or deputy an application for a deputy is required. Where there are family involved with the person, they may make the application to become the deputy. However, where there is no family then the Council will make the application to become a deputy. During the application process the account for the accruing debt will be put on hold and no recovery action will be taken until it has been established who has the legal authority to make financial decisions.

10. Review of Financial Circumstances

10.1 People must inform the Council as soon as their financial circumstances change as this may affect their assessed contribution. This specifically includes receipt of additional income or if they believe that a change will result in a reduction to their financial assessment and want it to be applied immediately.

10.2 Following notification of a change or a review visit, a new financial assessment will be completed and written notification of the outcome will be sent.

10.3 If the revised assessment results in an increase in the weekly contribution, the revised contribution will be backdated to the date of the change in circumstance.

10.4 If the revised assessment results in a decrease in the weekly contribution, this will be backdated to one month before the date of the review or the date that the circumstances changed, whichever is the later date.

10.5 The assessed contribution may be reviewed at any time. Occasions that may instigate a review include:

- A request from the person receiving care or their authorised representative
- Following an award or withdrawal of a benefit
- When new information is received as to the person's income and expenditure
- When the Department of Work and Pensions increases benefits

- As a result of any changes to the cost of a service, for example, as part of the Council's budget setting process
- At the request of the appropriate Service Manager

11. Annual Review

In addition to the reviews described above, the financial assessment will be revised annually in April to take account of the annual changes in benefits and other incomes. Where a person is in receipt of benefits paid at standard rates, the revised amount will be used in the new financial assessment. Benefits paid at non standard rates will be increased by the same rate used by the Department of Work and Pensions to increase benefits.

11.1 For other income components of the financial assessment, such as occupational pensions, a percentage increase linked to Consumer Price Index (CPI) will be applied unless another amount is agreed in the Council's annual budget setting process. Disability related expenditure, rent and Council tax will not automatically be increased.

11.2 Changes resulting from the annual increases or the application of a revised Minimum Income Guarantee will apply from the date assigned to these changes. An explanation and full details of the revised assessment will be sent to the person receiving care or their financial representative who will be asked to check the figures and contact the Council if they believe it is not an accurate representation of their circumstances.

12. Challenges to Financial Assessments

WBC aims to ensure all assessed contributions for services are fair and reasonable. The Council acknowledges that at times some people may experience difficulties or exceptional circumstances which should be considered on an individual basis and treated with dignity and respect. To ensure that people are provided with an opportunity to have any change in their individual circumstances taken into account, the Council offers two ways they can formally request that their assessed contribution is reconsidered, through:

- waivers; or
- reviews and appeals processes

12.1 Waivers

A waiver is a request to set aside the assessed contribution for a fixed period prior to any invoices being raised. A waiver will only be issued in exceptional circumstances where to apply a contribution would have a detrimental impact on the person or a family member. All waivers have to be agreed by the Head of Adult Social Care.

12.2 If it is decided that the contribution would have a detrimental impact the contribution will be suspended for up to three months and then reviewed. Each case will be considered on a case by case basis. Examples of reasons to issue a waiver may, in some circumstances, include but are not limited to:

- Vulnerable adults at risk of abuse and where Adult Social Care is closely monitoring the situation;
- People at risk of self-harm or neglect e.g. through drug or alcohol abuse or mental health problems;
- People who are experiencing trauma (e.g. bereavement of a close relative or family breakdown and where their financial or other circumstances are temporarily unstable);

- People in severe financial difficulty and to incur a further debt would have a detrimental impact on them.

12.3 Reviews and Appeals

The Council has robust processes for carrying out reviews and dealing with appeals to ensure people can express their views, request a review or lodge an appeal against their assessed contribution. The Review and Appeals Procedure is a separate document from the Charging Policy for Adult Social Care which is available on request.

12.3.1 The Review process and Appeals process can be used where:

- A person is dissatisfied with their assessed contribution calculation,
- They believe that they have insufficient funds to pay the contribution, or
- They believe that the contribution is incorrect

12.3.2 If a person is not satisfied with the outcome of the Review Process and Appeal process they can ask the Local Government Ombudsman to look at their case.

13. Independent Living Fund

The Independent Living Fund (ILF) is a national resource dedicated to the financial support of disabled people to enable them to choose to live in the community. This financial support was available to those who meet certain eligibility criteria, including being in receipt of support funded by Adult Social Care of more than £320 per week (excluding any assessed contributions), aged between 16 and 65 and in receipt of the higher rate care allowance of the Disability Living Allowance.

13.1 Recipients of awards from ILF will continue to be financially assessed for their contribution towards adult social care. As part of their agreement with ILF they may be asked to make a contribution towards their ILF award. This contribution will be included in the financial assessment process.

13.2 The Independent Living Fund is now closed to new applications and will be completely closed on 30 June 2015.

14. Privacy

Information will be collected to enable the calculation of contributions relating to services provided and assessment of welfare benefit entitlement. In accordance with the *Data Protection Act 1998*, this information will only be shared with other relevant people and agencies in accordance with the data protection principles. A person has the right to request to view their personal information held by the Council at any stage.

15. Equality Impact

An equality impact assessment has been undertaken for WBC's Charging Policy to understand the likely impact of this policy on vulnerable people with the protective characteristics outlined in Equalities legislation.

Appendices

Appendix 1 Example Contribution Calculations

Charges other than in a care home

In this Appendix, income means the total money a person receives that is taken into account in the calculations and allowances mean the minimum total income an person is allowed to keep before a contribution is required.

Examples use 2015/16 Benefit rates

Example 1 Single person pensionable age no disability-related benefit

Income	
State Pension	£115.95
Pension Credit	£ 35.25

Total Income =	£151.20

Allowances	
Pension Credit Guarantee	£151.20
Plus 25% Buffer	£ 37.80

Total Allowances =	£189.00

As the income is less than allowances no contribution will be payable by the person

Example 2 Single person aged between 18 and pensionable age + DRE of £30.00

Income	
ESA (Income related)	£109.30
Disability Living Allowance	£ 55.10

Total Income =	£164.40

Allowances	
Basic Income Support	£105.45
Plus 25% Buffer	£ 26.36
DRE	£ 30.00

Total Allowances =	£161.81

As the income is less than allowances no contribution will be payable by the person

Example 3 Single person over pensionable age + DRE of £5.50

Income	
Retirement Pension	£135.00
Occupational Pension	£ 25.00
Attendance Allowance	£ 55.10

Tariff income (on Capital of £18,000)	£ 16.00

Total Income =	£231.10

Allowances	
Basic Pension Credit	£151.20
Plus 25% Buffer	£ 37.80
DRE	£ 5.50

Total Allowances =	£194.50

Assessed maximum contribution = **£36.60** per week (i.e. the difference between Total Income and Total Allowances)

Example 4 Single person over pensionable age, with Attendance Allowance + DRE of £32.20

Income	
Retirement Pension	£115.95
Pension Credit (Inc SDP)	£ 97.10
Attendance Allowance	£ 55.10

Total Income =	£268.15

Allowances	
Basic Pension Credit	£151.20
Plus 25% Buffer	£ 37.80
DRE	£ 32.20

Total Allowances =	£221.20

Assessed maximum contribution = **£46.95** per week (i.e. the difference between Total Income and Total Allowances)

Charges in a care home

Example 1 Single person pensionable age

Income	
State Pension	£115.95
Pension Credit	£ 35.25

Total Income =	£151.20

Allowances	
PEA	£ 24.90

Total Allowances =	£ 24.90

As the income is more than the PEA a contribution of **£126.30** per week will be payable by the person

Appendix 2 Equity Release Scheme

The most common form of Equity Release Scheme is a Home Reversion Scheme (HRS), where a home owner will transfer the ownership of all or part of their home to a commercial or 'not for profit' organisation. Depending on the terms of the HRS, the funds released may be paid to the home owner in full on the date of the transfer, or may be translated into an annuity, or a combination of these.

Where a HRS results in the home owner receiving an annuity or where payments are made by instalments be they for life or for a fixed period, then all such payments will be treated as income, unless any of the following provisions apply:

- Where certain detailed conditions set out in the Care Act 2014 relating to annuities are met, then specified amounts comprised within the gross income from the annuity can be disregarded, namely, the component of the gross income which represents the weekly amount of interest on the loan (net or gross of income tax, where applicable);
- Where any part of the income or capital derived from a HRS plan is used to fund capital developments or disability related works to the property in question, the income so used may be disregarded from the charge calculation. The service user must produce evidence to this effect in order to claim such a disregard;
- Where the released funds are paid in instalments the total value of all the instalments outstanding will be added to the total value of all other savings held by the service user. If this total exceeds the current upper capital limit, the instalments will be treated as income and taken into account over a period equivalent to that which it represents, e.g. a payment due to be made calendar monthly is taken into account for a calendar month; and
- If this total is less than the current upper capital limit, each instalment will be treated as capital.

Other forms of equity release schemes will be considered on an individual basis. Additional information about equity release schemes can be obtained from the Access For All team on 01635 503050.

Appendix 3 Disability Related Expenditure – guide amounts

ITEM	AMOUNT	EVIDENCE
Adaptations to property	Cost net of any Disabled Facilities Grant will be considered if they are critical to the persons assessed care need, will be taken into account where any capital uses does not have an affect on the assessment. If capital was below the lower threshold then the cost will be allowed over 5 years	Receipts
Bedding	Max £5.00 per week if need is identified by Care Management	Receipts
Care -privately arranged	Actual cost if included in care assessment to meet care need that is not met by West Berkshire Council	Signed receipts for at least 4 weeks using a proper receipt book
Chiropodist	Actual cost if identified in Assessment and NHS chiropodist not available. Based on 6 weekly visits.	Receipts
Cleaning	Cleaning will be limited to the rooms necessary for the use of the person receiving support and at an hourly rate of up to £15 per hour	Receipts
Clothing	If the need is identified by Care Management	Receipts
Community Alarm System	Actual cost unless included in Housing Benefit or Supporting People Grant.	Bills from Provider
Dietary needs	Additional costs of special dietary needs due to illness or disability that are identified in a care or medical assessment	Receipts
Gardening	Basic gardening will be limited to prevent the property from appearing as though a vulnerable person lives there; grass cutting and minimal hedge trimming at an hourly rate of up to £18 per hour	Receipts
Hair Washing	Actual cost of washing & drying allowed where service user is unable to wash their own hair and hair wash is not part of the care package. Actual average weekly costs up to £7.50/week	Receipts
Heating Allowance	Single Person – Flat / Terrace £1,203 per year Couple – Flat / Terrace £1,587 per year Single Person – Semi Detached £1,278 per year Couples – Semi Detached £1,684 per year Single Person – Detached £1,555 per year Couples – Detached £2,049 per year Difference between actual and average (above) will be divided by 52 to obtain a weekly expenditure. NB Where accommodation is shared, the allowance appropriate to the size of property needed will be used e.g. where 3 people share a property their share of the bills will be considered against those of a single person	Bills from Provider
Hoist	Actual cost divided over the expected life time of the equipment	Evidence of purchase without DFG input
Independent Living Fund (ILF)	Client contribution as assessed by ILF	ILF award letter – ILF ceases on 30 June 2015

Incontinence Aids	Not allowed unless identified in the care assessment that NHS supplies cannot be used or are inadequate.	Receipts
Medical and pharmaceutical items	Consider items that should be made available via prescription. Allow cost of annual pre paid prescription divided by 52 weeks or actual cost, whichever is lower.	Receipts. Request for future receipts to be kept if unavailable
Powered Bed	Actual cost divided over the expected life time of the equipment	Care manager or OT to confirm that this is an essential requirement. Evidence of purchase.
Powered reclining chair	Actual cost divided over the expected life time of the equipment	Evidence of purchase.
Stair-lift	Actual cost divided over the expected life time of the equipment	Evidence of purchase without DFG input
Travel costs	Costs net of any DLA Mobility Component may be allowed if they are incurred solely or mainly due to disability and the need has been identified in the care assessment. HMRC mileage rate will be used if claim is based on fuel usage.	Receipts
Turning Bed Actual	Actual cost divided over the expected life time of the equipment	Care manager or OT to confirm that this is an essential requirement. Evidence of purchase.
Wheelchair/Scooter	Actual cost divided over the expected life time of the equipment	Evidence of purchase. Care manager or OT to confirm that this is an essential requirement. No allowance if equipment is provided free of charge
Other Costs	Including those identified in the care assessment to meet unmet care needs.	Receipts

Appendix 4

Legislative Context

The following is a brief outline of the legal framework relating to the contributions people can be asked to make towards the cost of their support.

Prior to 1 April 2015 the legislation for determining charging for care was set out as follows:

Where residential care was provided contributions were assessed within the framework of the National Assistance (Assessment of Resources) Regulations 1992 and the Charging for Residential Accommodation Guide (CRAG) issued by the Department of Health. The Council applied these rules to people in permanent residential care.

Where care was provided in a non-residential setting or respite care in a residential setting, contributions were assessed within the framework of the National Assistance (Assessment of Resources) Regulations 1992 and the Fairer Contributions Guidance issued by the Department of Health.

From 1 April 2015, the statutory framework for charging is set out in the Care Act 2014 and The Care and Support (Charging and Assessment of Resources) Regulations 2014 pursuant to the Care Act 2014. In October 2014 the Department of Health issued the Care and Support Statutory Guidance which gives guidance to councils on charging for all types of care under the Care Act. As statutory guidance, councils must have regard to the guidance.

This page is intentionally left blank

Fairer Contributions Policy for Non-Residential Care Services

Document Control

Document Ref:		Date Created:	April 2012
Version:	5	Date Modified:	April 2014
Revision due	April 2015		
Author:	Jo England	Sign & Date:	1/4/14
Owning Service			
Equality Impact Assessment: (EIA)	Date undertaken:	March 2012	
	Issues (if any):		

Chief Executive	Sign & Date:	
Corporate Director (Community Services)	Sign & Date:	
Councillor Joe Mooney Portfolio holder for Community Care		Initial Policy signed off by Special Executive 12 April 2012 Version 3 signed off by Joe Mooney 25.10.12

Change History

Version	Date	Description	Change ID
1	12 April 2012	New Policy	1
2	23 May 2012	Fuel rates amended to 12/13 figures	2
3	25 October 2012	Following Legal advice	3
4	3 April 2013	Review for new rates	4
5	1 April 2014	Review for new rates	5

Contents

1. Introduction

2. Legislative Context

3. Residential Accommodation and CRAG

4. Contribution Principles

5. Types of Non-Residential Services

5.1 Services Provided Free of Charge

5.2 Services Requiring an Assessed Contribution

5.3 Services Outside of the 'Fairer Contribution Policy'

6. Assessing the Financial Contribution

6.1 Overview

6.2 Assessable Income

6.3 Protected Income

6.4 Housing Costs

6.5 Disability Related Expenditure

6.6 Exclusions to a DRE

6.7 Special Equipment

6.8 Other factors that affect the assessment

7. The Contribution Period, Contributions Payable and Method of Payment

7.1 Personal Budgets

7.2 Other Services

7.3 Charging Week

8. Decline to provide Financial Details

9. Delays in completing the Financial Assessment

10. Debt Recovery

11. Review of Financial Circumstances

12. Annual Review

13. Contribution Issues

13.1 Waivers

13.2 Reviews, Appeals and Complaints

14. Independent Living Fund

15. Privacy

16. Equality Impact

Appendices

Appendix 1 Example Contribution Calculations

Appendix 2 West Berkshire District Council Rates

Appendix 3 Home Reversion Scheme

Appendix 4 Disability Related Expenditure – guide amounts

Appendix 5 Glossary of Terms

1. Introduction

The purpose of this policy is to establish how West Berkshire District Council will ask people for a contribution towards the cost of the adult social care support they receive. This document covers the following areas:

Sections 2 to 4 explain the national framework which relates to making contributions to Adult Social Care, the main legal requirements, and how the Council's policies for residential and non residential services operate,

Section 5 identifies which Adult Social Care services funded by the Council people may be asked to make a contribution towards,

Section 6 explains how a financial assessment is carried out,

Section 7 explains how peoples contribution is calculated and once that is done, how people can make the contribution, and

The final sections, 8 to 17, explain what happens if people cannot afford to pay or want to make a complaint as well as containing other relevant miscellaneous information.

Adult Social Care is going through a period of significant change, moving from "traditional" services arranged by the Council following a care assessment towards personal budgets. In both cases the Council may require the individual receiving support to make a financial contribution and this policy covers both circumstances.

The Council is committed to ensuring it uses a consistent and fair approach to assessing and collecting contributions from individuals. This approach will promote affordable, sustainable services for people who require Adult Social Care Services.

2. Legislative Context

The following is a brief outline of the legal framework relating to the contributions individuals can be asked to make towards the cost of their support.

Where residential care is provided contributions are made within the framework of the *National Assistance (Assessment of Resources) Regulations 1992* and the current Charging for Residential Accommodation Guide (CRAG) issued by the Department of Health. The Council has to apply these rules for individuals in permanent residential care.

Councils are also entitled to ask for a contribution towards the cost of non-residential adult social care services provided under Section 17 of the *Health and Social Services and Social Security Adjudication Act (1983)*. Under Section 17 (3) of this Act, users of these services can request a review of their assessed contribution at any stage.

In November 2001, the Department of Health issued statutory guidance to Councils on charges for non-residential social care entitled *Fairer Charging Policy for Home Care and other non-residential Social Services - Guidance for Councils with Social Services Responsibilities*. This guidance required that Councils implement a 'Fairer Charging' Policy.

In January 2008 The Department of Health issued a circular on the transformation of Adult Social Care. This required a personalised approach to Adult Social Care which will eventually allow all eligible individuals to have a personal budget to enable them to make their own choices around how their support should be provided.

In July 2009 The Department of Health issued a best practice 'Fairer Contributions Guidance' for use when calculating an individual's contribution to their personal budget. This supplements their current Fairer Charging Guidance.

The Council's *Fairer Contribution Policy* will ensure that with effect from 30 April 2012:

- Individuals in receipt of non-residential and short term respite care services contribute to the cost of their services subject to a financial assessment
- As part of their financial assessment, the Council offer to undertake a welfare benefits assessment for individuals to ensure they can claim all entitled benefits, thereby minimising their own contribution to support costs.

The services covered within this framework include both those chosen by an individual when planning how to spend their personal budget and those provided as a result of a community care assessment by a social worker or care manager.

3. Permanent Residential Accommodation and CRAG

Adult Social Care will seek contributions for residential accommodation in line with the current CRAG. Charges for permanent residential accommodation are not therefore covered further in this policy.

This does not include short term placements of less than 56 consecutive nights as well as residential respite care. Any individual who would like information on CRAG can obtain it from the Department of Health. The link to the website being shown below:

<http://www.dh.gov.uk/en/Publicationsandstatistics/index.htm>

Whilst this *Fairer Contributions* policy is separate from CRAG, there are a number of times where it uses the same rules or limits as that contained within CRAG and these are referred to throughout the policy.

4. Contribution Principles

The Council adopts the following over-arching principles to ensure fair contributions from individuals:

- In order to act reasonably throughout the process of obtaining contributions the Council will, in all cases, consider the circumstances of each individual on the merits of each case,
- Contributions from individuals will be fair and reasonable, and calculated with their input through an individual financial assessment,
- To ensure that people contribute only what they can reasonably afford. Those individual whose capital is below the upper capital threshold will retain a sum for their basic living expenses which is equivalent to Income Support or Pension Credit Guarantee level + 25% as **Protected Income** (see 6.3), before they are asked to make any contributions,
- Whether the individual receives a service after a community care assessment by a social worker or care manager, or receives a personal budget, the financial assessment will be calculated in the same way,
- In most cases contributions will be applied to the total cost of the service funded by the Council e.g. live in carer but in some cases the contribution will be applied to the average cost e.g. home care and not the actual cost to the Council,
- Contributions will not exceed either the cost of the service or a person's individual budget (if they receive one),
- Contributions will not be required for the cost of the assessment or administration processes for the service provided, except that where an external brokerage service is provided this will be included as part of the personal budget,
- Benefits advice will be available to individuals through the assessment process to try and ensure that they have access to their full benefits and entitlements,

- If an individual does not pay their assessed contribution, or lodges an appeal against the assessed contribution, the Council will not refuse or withdraw services which meet a person's assessed needs.
- Where an individual does not pay their assessed contribution debt recovery will be pursued for all outstanding verified contributions and court proceedings will be initiated if invoices are not paid.

5. Types of Non-residential Services

The Council funds a wide range of adult social care services. The following describes what are provided without charge and what might incur a contribution:

5.1 Services Provided Free of Contributions

The Council can not apply any contribution towards:

- Community equipment services, including assistive technology, costing less than £1,000 (supplied as a result of an assessment) as defined in the Community Care (Delayed Discharges etc.) Act 2003. Examples of these include commodes, stair rails and grab rails.
- Intermediate Care services. If these are in addition to an established (albeit in some cases interrupted) package of support, contributions will continue against the established package. The individual's assessment will identify those services provided under Intermediate Care arrangements.
- Assessment and care planning services – such as supported self assessment, needs assessment, support planning and care management

5.2 Services where a contribution will be sought

People will be assessed to make a contribution for most other adult social care services, including those taken by way of a direct payment. This includes:

- Home Care (including the cost of two carers where these are necessary)
- Community Support,
- Day Care and Out reach support,
- Transport,
- Employment Support
- Respite care in a residential/nursing home (not exceeding 56 consecutive nights)
- All services arranged within a Personal Budget, including the cost of brokerage services provided outside the Council

This list is not exhaustive and other services which are not the 'non traditional' community care services listed above will require an assessed contribution (except where there is statutory guidance or a Council policy already in place on contributions for such services).

5.3 Services Outside of the 'Fairer Contribution' Policy

Adult Social Care provides a number of other services which are not community care services. These are subject to separate legislation over contributions and are not covered in this policy:

- Meals at a Resource Centre. These will be subject to a flat rate charge and although this charge will be added to any weekly assessed contribution it will not be subject to the financial assessment process.
- After-care services under the Mental Health Act (Section 117).
- Advice and assessment.
- Care for sufferers of CJD.
- Any services funded by the NHS (e.g. Continuing Health Care).
- Occupational Therapy/Equipment.
- Reablement Care Services
- Issue of Blue Badges

6. Assessing a Financial Contribution

6.1 Overview of the financial assessment process

A full financial assessment will be undertaken for individuals who receive services for which a contribution can be made, including those who are in receipt of a personal budget. This is in order to establish an individual's ability to contribute towards the total cost of their chargeable services.

The financial assessment will ensure that individuals:

- Have sufficient money to meet their basic housing costs and some disability related expenditure
- Retain their basic 'Protected Income', so this is not included in the assessment calculations, where their capital is below the upper threshold

The assessment calculation is summarised as:

Assessable Income (see 6.2)

Less: Protected Income (see 6.3)

Less: Housing Costs (see 6.4)

Less: Disability Related Expenditure (see 6.5 to 6.7)

Less: Other Allowable Expenses

Equals: Assessed Contribution



Where individuals have capital this may affect the assessed contribution. If an individual's capital exceeds the limits specified in CRAG (see Appendix 2), they will be required to pay the full contribution for services supplied. Property (and income from property) will be treated in accordance with CRAG except that the value of the main home is not included in the calculation. If the capital is below this limit there may be an assumed income called *tariff income* that is included in the calculation. This is explained in section 6.8.

Where an individual is co-habiting as part of a couple, it is the Council's policy to assess the contribution in the way which is more beneficial to the individual. This will only apply if the individual has not already been assessed as liable to pay the full cost due to their own capital and 50% of any jointly owned capital. This process is explained in more detail in section 6.8.

The Council has currently set a minimum contribution, currently £1.25 per week (see Appendix 2). If an individual's assessed contribution is less than this minimum, no charge will be made as it is not viable to collect a contribution below this level.

Examples of calculated contribution are provided at Appendix 1.

As part of the financial assessment process, advice will be provided to individuals regarding benefit entitlement. Assistance will be available to complete benefit applications should a potential entitlement be identified.

Where assistance is provided in applying for a benefit, the individual will be notified of the effect of the new benefit on their assessed contribution, which will be backdated to the date of award.

6.2 Assessable Income

The assessment process will look at the total income an individual has available to make a contribution. In line with legislation or national guidance certain sources of income will be treated differently in the calculation, as explained below.

The income below will **not** be included in the assessment:

- Earnings (as per DOH guidance)
- Statutory Sick Pay, Statutory Adoption Pay and Statutory Maternity Pay or Allowance
- Mobility component of Disability Living Allowance
- Night time element of the care component of Disability Living Allowance and Attendance Allowance unless night time care/support is provided by Adult Social Care
- Any Charitable Income
- Savings Credit element of Pension Credit
- Working Tax and Child Tax Credit
- War widows' supplementary pension
- A partner's disability related benefits
- Winter fuel and Cold Weather payments
- Social Fund Payments
- Maintenance payments specifically relating to a child
- Child benefit.
- War Disablement Pension or Armed Forces compensation Scheme: Guaranteed Income Payment and War Widows Pension or Armed Forces Compensation Scheme

The sources of income below will only partially be included in the assessment:

- Survivors Guaranteed Income Payment (The first £10 per week has to be disregarded, but anything above this is included)
- Sub tenants – Treatment of any income from sub tenants will be in accordance with the current CRAG (Presently the first £20 per week has to be disregarded, but anything above this is included)
- Boarders - Treatment of any income from boarders will be in accordance with the current CRAG (Presently the first £20 per week plus half of any income over £20 per week has to be disregarded, but anything above this is included).

Individuals whose capital and savings are less than the maximum limit as set out in CRAG but above the CRAG lower limit (shown in *Appendix 2*) will have a tariff income assumed. This will be calculated in accordance with the rules specified in CRAG. Unless stated otherwise in this policy, the treatment of all other income will follow CRAG.

If individuals have released funds using Equity Release Schemes the income may be included in the financial assessment process. Refer to *Appendix 3* for further information.

6.3 Protected Income

Individuals whose capital is below the upper capital threshold will retain income equivalent to either basic Income Support or Pension Credit Guarantee level plus 25% as 'Protected Income', which is not included in the assessment calculation. This amount will depend on the individual age and benefit entitlement as per DOH guidance.

6.4 Housing Costs

The following household expenditure may be allowed in the contribution calculation depending on the individual's circumstances:

- Rent (net of housing benefits)
- Mortgage (net of income support or pension credit assistance)
- Board and lodgings (as defined and managed in CRAG)
- Council Tax (net of Council Tax Support)
- Building insurance (not including contents)
- Essential service charges and ground rent (net of assistance funding)

6.5 Disability Related Expenditure

The Department of Health defines Disability Related Expenditure (DRE) as any reasonable additional cost that the individual incurs to meet their specific needs due to a disability or condition. To ensure that the individual retains appropriate funding to meet these costs, an allowance for DRE is included in the assessment process where applicable.

NB: Disability related expenditure is not restricted/related to West Berkshire Council's eligibility criteria under Fair Access to Care. DRE is related to any presenting need identified in the community care assessment which is not met by WBC under its Eligibility criteria.

Therefore, DRE will be considered when:

- The extra cost is needed to meet an individual's specific need due to a condition or disability as identified in the individual's community care assessment; and
- The cost is reasonable and can be verified (Receipts will be requested); and
- It is not reasonable for a lower cost alternative item or service to be used; and
- The expenditure is required to meet the individual's presenting care needs.

The Council has a schedule of reasonable DRE costs (see *Appendix 4*). These costs will be reviewed each year.

6.6 Exclusions to a DRE

All decisions on whether expenditure is DRE will be made with reference to individual circumstances. However, DRE allowance will not usually be made for the following :-

- General items or services required for daily living, which would be used by the general population and not specific to a condition or disability i.e. food and utility bills
- Structural or landscaping work (e.g. tree surgery, path laying or re-laying) in gardens or house;
- Window cleaning
- Amounts paid in relation to private care arrangements that falls outside of an individual's assessed care needs
- Any item or service met by a payment from a Community Care Grant or where another funding source has been provided
- Cleaning that falls outside of an individual's assessed care needs
- Gardening that falls outside of an individual's assessed care needs
- Laundry that falls outside of an individual's assessed care needs
- Cost of someone going to do the individual's shopping
- Enrichment activities
- Social activities
- Dental Treatment (including dentures)
- Optical Treatment (including glasses)
- Hearing aids (including batteries and insurance)
- Massage
- Hydrotherapy
- Physiotherapy
- Toiletries
- Broadband and telephone charges
- Alternative therapies/medicines
- Personal assistant that falls outside of an individual's assessed care needs
- Mobile phone charges
- Household cleaning products
- Dog walking
- Sky or other Media packages
- The difference between the actual cost and the lower cost alternative where it is reasonable for the individual to use a lower cost alternative and the lower cost alternative is available

Where a particular item of expenditure combines more than one item or service, instead of disallowing all of the expenditure, the elements that meet the individual's specific need due to their disability or condition can be allowed. For example hair washing is allowed if the individual could not

do this task themselves. However, hair cutting would not be allowed as this is a service used by the general population and is not a disability related expense.

The individual will be requested to provide receipts for expenses claimed. If previous receipts have not been kept, the individual will be asked to provide receipts of future expenses. Receipts or evidence is required for common expenses, i.e. utilities. The amounts in *Appendix 4* show an average expenditure for various household types. This will be used to calculate the extra costs due to the individual's condition or disability. These amounts will be reviewed annually. If the individual does not provide receipts, despite requests to do so, the Council will decide that the expense should not be allowed.

6.7 Special Equipment

Costs for purchasing special equipment (e.g. stair lifts) will be allowed if they meet the individual's specific need due to a disability or condition. The amount allowed will be based on the life span of the equipment and the purchase price paid by the individual, where this is considered reasonable. This allowance will not apply if the purchase was funded by a Disabled Facilities Grant or any other source of external funding.

Maintenance and repair costs for special equipment will also be allowed if that equipment meets the individual's specific need due to a disability or condition. The weekly amount allowed will be the annual cost divided by 52 weeks.

6.8 Other factors that affect the assessment

Shared costs

If more than one person lives in the individual's home the additional costs relating to a disability or condition will be shared between the occupants whose needs contribute to the additional costs.

Capital

The value of capital and assets is as defined in CRAG and the National Assistance (Assessment of Resources) Regulations (1992).

Individuals with capital above the CRAG upper limit (including property but excluding the value of their main home), are liable to pay the full contribution for services supplied (or towards the personal budget). When an individual moves out of a property that they own and becomes ordinarily resident in alternative accommodation, the owned property will no longer be deemed their main home and will be regarded as capital for the purposes of the contribution assessment.

Where individuals have capital value below the CRAG upper limit, but more than the CRAG lower limit, their ability to contribute will be assessed using standard processes and take into account an assumed weekly income from the capital. This is called *tariff income*.

The capital limits will be reviewed annually in accordance with CRAG. If an individual knowingly reduces their capital in order to reduce their contribution (for example by excessive spending or gifting), this will be taken into account in the assessment and the contribution may be calculated as if that person still holds the capital that has been disposed of.

Couples

Where an individual is co-habiting as part of a couple, the assessment process is summarised in the sections below. This only applies if the individual hasn't already been assessed as liable to pay full cost based on their own capital and 50% of any jointly owned capital.

For these purposes a couple is defined as follows:

- A legally married husband and wife
- Two individuals who have lived together as a married husband and wife for at least twelve months but who are not legally married

- Two individuals of the same sex who under the Civil Partnership Act 2004 have formed a civil partnership
- Two individuals of the same sex who have lived together as a couple for at least twelve months but who have not formed a formal civil partnership under the Civil Partnership Act 2004.

When assessing one member of a couple the Council's has the discretion to assess in the most beneficial way to the individual. All couples will be offered a joint assessment to identify the most beneficial outcome, whilst noting that a spouse or partner is not obliged to disclose their own resources, should they choose not to. However they will be required to identify any income or capital (such as a welfare benefit) that both members of a couple are entitled to jointly.

When assessing one member of a couple as a single person:

- 100% of solely owned and 50% of all jointly owned capital and savings will be taken into account (excluding the value of the main home);
- All assessable income appropriate to the individual will be considered;
- An allowance will be made for 50% of the couple's total joint basic household expenditure;
- The 'protected income' will be 50% of the couple's allowance
- An allowance will be made for the individual's Disability Related Expenditure

When assessing as a couple:

- The income and savings capital for the couple will be considered. If the spouse or partner is not willing to disclose this information, the individual will be assessed as a single person;
- An allowance will be made for 100% of the couple's basic household expenditure;
- The 'protected income' level will be that of a couple;
- The couple's assessed disposable income is then halved prior to considering any individual Attendance Allowance or Disability Living Allowance awarded;
- An allowance will be made for the individual's Disability Related Expenditure
- When both partners receive support which is chargeable, the standard CRAG capital limits will be doubled.

7. Contributions Payable, the Contribution Period and Methods of Payment

7.1 Personal Budgets

The following points relate to contributions payable where an individual is in receipt of a personal budget:

- The contribution payable will either be the amount of the gross personal budget or the individual's assessed contribution, whichever is lower;
- Where an individual (or a suitable person who receives a Direct Payment on behalf of an individual) receives a Direct Payment their contribution will be paid in full (this process may change in future);
- An individual will be invoiced for their contribution to the personal budget. An invoice will be raised to the individual every twenty eight days in arrears.
- Individuals will contribute from the date the personal budget commences.
- Personal Budgets will be audited on an annual basis and any unspent money will need to be repaid.

7.2 Other Services

The following points relate to contributions payable where an individual has their support needs met by services organised by the Council after an assessment of need:

- The contribution payable will either be the actual chargeable cost of services supplied during the period or the individual's assessed contribution, whichever is lower
- Where an individual (or a suitable person who receives a Direct Payment on behalf of an individual) receives a Direct Payment their contribution will be invoiced every 28 days in arrears
- Where a Direct Payment is not received an individual will be invoiced for their contribution towards costs. An invoice will be raised to the individual in arrears after every twenty eight day period.
- Where a service was supplied or was available but the individual does not receive it because they are absent – for example they are away from their home at the time they are due to receive home care, a contribution will still be required unless the absence has been pre-notified (at least 24 hours in advance to the Council) or is due to hospitalisation, illness or other circumstances beyond the individual's control. Where an individual believes they should not be required to contribute to a service they should contact their care manager in the first instance.
- Any overpayments will be reimbursed to the individual or credited towards the cost of future services. The individual will be notified accordingly; and
- Individuals will contribute from the date the service commences.

7.3 Charging Week

An individual's assessed contribution will apply to any services (including non-residential or respite care) provided in each charging week. A charging week starts on a Monday and ends on a Sunday. For example services that run from Wednesday to the following Tuesday will be charged across two charging weeks, except where an individual receives only respite care, when the contribution will be apportioned over the number of nights an individual is in respite.

8. Non disclosure of Financial Details

Individuals have the right to choose not to disclose their financial details. If this right is exercised they will be required to pay the full contribution applicable at the time the service was provided or personal budget was received.

9. Delays in completing the Financial Assessment

If an individual unreasonably delays completing the financial assessment they will be required to pay the full cost of services supplied (or value of the personal budget), until a financial assessment is completed. If a financial assessment results in a lower contribution than this, consideration will be given to refunding the difference depending on the circumstances of the case. Discretion in this matter will be held by the relevant budget holding manager within Adult Social Care.

'Unreasonable delay' will be determined on a case by case basis, however as a general rule the Council will expect the individual or their representative to be available for a visit within 2 weeks of contact from the Welfare Benefit team. Where the individual or representative prefers to complete the financial circumstances statement by post, then it is expected that this will be returned to the Council within 2 weeks. If further information is required for the financial assessment then it is expected that the individual will provide this within 2 weeks of the date it was requested.

If the individual co-operates with the assessment within 28 days of service commencement, any reduction in contribution will be reimbursed or credited against future service costs.

10. Debt Recovery

If the individual does not pay the contribution either in full or in part and the invoice remains unpaid, the Council's debt recovery procedures will be instigated. This may result in legal action and extra costs to the individual.

11. Review of Financial Circumstances

Individuals are required to inform the Welfare Benefit team as soon as their financial circumstances change, as this may affect their assessed contribution. This specifically includes receipt of a new benefit or if they believe that a change will result in a reduction to their financial assessment and want it to be applied immediately.

Following notification of a change or a review visit, a new financial assessment will be completed using the information provided. If the revised assessment results in an increase in the weekly contribution, the individual will be notified of the revised contribution and it will be backdated to when the individual's circumstances changed.

If the revised assessment results in a decrease in the weekly contribution, this will be backdated to one month before the date of the review or the date that the individual's circumstances changed, whichever is the later date.

The individual's financial circumstances and assessed contribution may be reviewed at any time. Occasions that may instigate a review are listed below.

- On request from the individual or his / her authorised representative
- Following an award or withdrawal of a benefit
- When new information is received as to the individual's income and expenditure
- When the Department of Work & Pensions increases benefits
- As a result of any changes during the budget setting process
- At the request of the appropriate Service Manager

12. Annual Review

In addition to the reviews described above, the financial assessment will be reviewed annually to take account of the annual increases in benefits and other incomes which take place each April. Where the individual is in receipt of benefits paid at standard rates, the revised amount will be substituted. Benefits paid at non standard rates will be increased by the same inflator used by the Department of Work and Pensions to increase benefits.

For other components of the financial assessment, such as occupational pensions, a percentage increase linked to Consumer Price Index (CPI) will be applied unless another amount is agreed in the Council's annual budget setting process. Disability related expenditure, rent and Council tax will not automatically be increased.

Changes resulting from the annual increases or the application of a revised protected income rate will apply from the date assigned to these changes. An explanation and full details of the revised assessment will be sent to the individual, who will be asked to check the figures and contact the Welfare Benefit team if they believe it is not an accurate representation of their circumstances.

13. Contribution Issues

West Berkshire District Council aims to ensure all assessed individuals' financial contributions for services are fair and reasonable. The Council acknowledges that at times, some individuals may experience difficulties or exceptional circumstances which should be considered on an individual basis, and treated with dignity and respect. To ensure these individuals are provided with an opportunity to have their own circumstances considered, the Council offers two ways they can formally request that their assessed contribution is reconsidered, through:

- Waivers; or
- Reviews & Appeals processes

13.1 Waivers

A waiver is a request to set aside the assessed contribution for a fixed period prior to any invoices being raised. A waiver will only be issued in exceptional circumstances, where to raise a contribution would have a detrimental impact on the individual or others. If a waiver may be appropriate this will be referred to the relevant budget holding manager.

If the relevant budget holding manager agrees that the contribution would have a detrimental impact on the individual, then the contribution will be suspended for up to three months and then reviewed. Examples of reasons to issue a waiver may include (this is not an exhaustive list):

- Vulnerable adults at risk of abuse, and where Adult Social Care are closely monitoring the situation;
- Individuals at risk of self-harm or neglect e.g. through drug or alcohol abuse or mental health problems;
- Where individuals are experiencing trauma (e.g. bereavement of a close relative or family breakdown and where their financial or other circumstances are temporarily unstable);
- Where an individual is in severe financial difficulty and to incur a further debt would have a detrimental impact on them.

Any requests for such waivers must be recorded on an Adult Social Care Waiver Form. Any waivers over £1,000 will require the approval of both the relevant budget holding manager and the Head of Adult Social Care. A copy of this form will be held by the Welfare Benefit Team Manager who maintains a record of all waivers so that they can be highlighted to the Council's Section 151 Officer on a quarterly basis.

13.2 Reviews and Appeals

The Council has a robust appeals process to ensure individuals can express their views, request a review or lodge an appeal against their assessed contribution. This process does not form part of the complaints process and this process should be followed before making a complaint. The Council welcomes feedback from individuals, and has dedicated officers to manage the review, appeals and complaints processes.

An individual can appeal if:

- If they are dissatisfied with their assessed contribution calculation,
- They believe that they have insufficient funds to pay the contribution, or
- They believe that the contribution is incorrect (i.e. incorrect cost of service have been charged)

In any of these circumstances they have the right to request a review under the non-residential contribution Review and Appeals procedure.

The individual or their authorised representative can start the review process at any time by contacting their social worker or the Welfare Benefit Team.

Review and Appeals Procedure

West Berkshire District Council's Review and Appeals procedure exists to protect the rights of all individuals by encouraging a fair and open resolution of any issues. This process provides a safeguard to those people who have been assessed to make a contribution, however cannot reasonably afford to pay the assessed contribution (or part of it), or feel that the contribution has been incorrectly assessed.

Under Section 17 (3) of the Health and Social Services and Social Security Adjudication Act (HASSASSA) 1983 individuals have the right to ask the Council to review their contribution at any time if they receive a service from the Council, for which they are being asked to contribute and they believe their contribution is too much.

The person can request a review, and if they can demonstrate to the Local Authority that their means are insufficient for them to reasonably pay the assessed contribution the Local Authority may reduce the amount of the contribution accordingly. In some case they may waive the contribution.

However, it is for the person, with help if necessary from an adviser, friend or advocate to demonstrate to the Local Authority that their means are insufficient to reasonably meet their assessed contribution.

The Review and Appeals Process

As with all contributions, the individual will have a comprehensive financial assessment and be notified of their assessed contribution towards their care.

Where an individual can provide supporting evidence to the Council to demonstrate that they have been unfairly assessed or are unable to afford the contribution, they can request a review of their contribution or lodge an appeal. If individuals are concerned about their contribution, they should contact the Welfare Benefit team as soon as possible to resolve the issue promptly.

The council will consider reviews or appeals within 3 months of the date of charge notification and only accept at its discretion those received outside this timescale.

Stage 1 – Review of the assessment

Individuals can request a review by having a simple review form completed. This can be completed in by the individual, or with assistance from a family member, friend, Care Manager/ Social Worker, or advocate via the telephone, or email.

Once this completed form and information to support the review is received, the case will be reviewed within 10 working days.

The review will be considered by the Welfare Benefit Team Manager who will:

- Review information from the Financial Assessment, ensuring the information is accurate and complete;
- Establish whether the individual has additional factors or information which should be taken into consideration;
- Request the contribution to be re-calculated, if appropriate;
- Advise the individual of the review outcome and any changes to the contribution, effective date, and the individual's right to access the next stage of the process if they are still dissatisfied with the outcome and explanation provided.

This advice will be provided in writing and be ready for collection or delivery within 24 hours of Welfare Benefit Team Manager's decision.

The individual should request the review panel stage within 10 working days of the review outcome.

If the Welfare Benefit Team Manager requires clarification from the individual regarding their application for review, they will make contact with them within 10 working days. Where there is doubt regarding the stated expenditure, or expenses appear higher than typically expected, the Welfare Benefit Team Manager will request supporting evidence from the individual, as well as use their discretion in making decisions about the appropriate allowances to be awarded.

Where an individual does not co-operate with the review process, or refuses to provide satisfactory evidence, they will continue to contribute the assessed amount, or the actual cost of services supplied (if higher).

Non co-operation or objection to the principle of making a contribution will not qualify a user for a reduction in their contribution.

While a review is being undertaken, the individual will continue to pay the assessed contribution until the Welfare Benefit Team Manager decides to change or continue the assessed contribution.

The Welfare Benefit Team Manager has the discretion to backdate contribution reductions to the date of the request for an appeal, or in exceptional circumstances, to the date the charges commenced.

In cases where it appears that the individual can not reasonably be expected to pay the assessed contribution the Welfare Benefit Team Manager can defer contributions until the review is completed.

Stage 2 – Appeals Panel

If the individual is still dissatisfied at the end of the stage 1 review, they can appeal against the reviewed decision. Appeals will be considered by an Appeals Panel.

This panel consists of three people, the Client Financial Services Manager, a care Service Manager and a Team Manager or Assistant Team Manager. The Appeals Panel will be convened within 15 working days of the Council receiving the initial request for a review.

Both the Welfare Benefit Team and the individual can provide written submissions to that panel before the panel hearing.

In extraordinary circumstances if the panel members consider from the submissions that the appeal is “frivolous, vexatious, repetitive or out of jurisdiction” the panel can recommend to the Head of Adult Social Care that the appeal should not be heard. The decision of the Head of Adult Social Care as to whether to proceed is final.

The Review Panel will consider the issues and information presented at the stage 1 review and any new related information. The individual may make representations themselves or a nominated representative can make representations to the panel meeting.

The Panel will be able to hear from the individual and Welfare Benefit Team Manager and seek legal advice where appropriate.

The Chair of the Review Panel will advise the Head Adult Social Care and the individual of its findings and recommendations in writing, within 2 working days of the panel hearing.

The Head of Adult Social Care will respond in writing to the Review Panel's recommendations and identify any the action the Council will take within 3 days of receiving the Panel's recommendations.

The decision of the Adult Social Care Department prevails. Where the individual is still dissatisfied with the outcome they have the right to access the statutory complaint procedure. Timescales for the acceptance of complaints will be consistent with those used in the Statutory Complaints Procedure.

14. Independent Living Fund

The Independent Living Fund (ILF) is a national resource dedicated to the financial support of disabled people to enable them to choose to live in the community. This financial support was available to those who meet certain eligibility criteria, including being in receipt of support funded by Adult Social Care of more than £320 per week (excluding any contributions from individuals), aged between 16 and 65 and in receipt of the higher rate care allowance of the Disability Living Allowance.

Recipients of awards from ILF will continue to be financially assessed for their contribution towards adult social care. As part of their agreement with ILF they may be asked to make a contribution towards their ILF award. This contribution will be included in the financial assessment process.

The Independent Living Fund is closed to new applications and will be completely closed on 30 June 2015.

15. Privacy

Information will be collected to enable the calculation of contributions relating to services provided and assessment of welfare benefit entitlement. In accordance with the *Data Protection Act 1998*, this information will only be shared with other relevant people and agencies in accordance with the data protection principles or with the written consent of the individual or their legally appointed representative. An individual has the right to request to view their personal information held by the Council at any stage.

16. Equality Impact

An equality impact assessment has been undertaken for West Berkshire District Council's *Fairer Contribution Policy* to understand the likely impact of this policy on vulnerable people with the protective characteristics outlined in Equalities legislation.

Where there is an adverse impact on individuals, they may be considered under the transitional arrangements.

Appendices

Appendix 1 Example Contribution Calculations

In this Appendix, income means the total money an individual receives that is taken into account in the calculations and allowances mean the minimum total income an individual is allowed to keep before a contribution is required.

Examples use 201/15 Benefit rates

Example 1 Single person pensionable age no disability-related benefit

Income	
State Pension	£107.45
Pension Credit	£ 40.90

Total Income =	£148.35

Allowances	
Pension Credit Guarantee	£148.35
Plus 25% Buffer	£ 37.09

Total Allowances =	£185.44

As the income is less than allowances no contribution will be payable by the individual

Example 2 Single person aged between 18 and pensionable age + DRE of £30.00

Income	
Income Support	£104.25
Disability Living Allowance	£ 54.45

Total Income =	£158.70

Allowances	
Basic Income Support	£104.25
Plus 25% Buffer	£ 26.06
DRE	£ 30.00

Total Allowances =	£160.31

As the income is less than allowances no contribution will be payable by the individual

Example 3 Single person over pensionable age + DRE of £5.50

Income	
Retirement Pension	£135.00
Occupational Pension	£ 25.00
Attendance Allowance	£ 54.45
Tariff income (on Capital of £18,000)	£ 16.00

Total Income =	£230.45

Allowances	
Basic Pension Credit	£148.35

Plus 25% Buffer	£ 37.09
DRE	£ 5.50

Total Allowances =	£190.94

Assessed maximum contribution = **£39.51** per week (i.e. the difference between Total Income and Total Allowances)

Example 4 Single person over pensionable age, with Attendance Allowance + DRE of £32.20

Income	
Retirement Pension	£107.45
Pension Credit (Inc SDP)	£102.00
Attendance Allowance	£ 54.45

Total Income =	£263.90

Allowances	
Basic Pension Credit	£148.35
Plus 25% Buffer	£ 37.09
DRE	£ 32.20

Total Allowances =	£217.64

Assessed maximum contribution= **£46.26** per week (i.e. the difference between Total Income and Total Allowances)

Appendix 2 West Berkshire District Council Charge Rates (2014-15)

Rates for 2014-15

- Homecare - £18.95 per hour
- Community Support - £17.12 per hour
- Day Centre - £44.20 per day
- Transport - £7.95 per trip
- Outreach - £17.12 per hour

Other services will be charged at the actual cost of the service.

Minimum Assessed Contribution £1.25 per week

Capital Limits 2014-15

Maximum threshold	£23,250 (full contribution applies above this level irrespective of income)
£0 - £14,249	Disregarded
Lower threshold	£14,250
£14,250 – £23,249	Tariff Income applied at the rate of £1 for every complete £250, or part £250.

Protected Income - individuals who capital is below the upper capital threshold will retain a level of income equal to the *basic income support* (Explained above) plus a 25% buffer. This is the *Protected Income*.

Appendix 3 Equity Release Scheme

The most common form of Equity Release Scheme is a Home Reversion Scheme (HRS), where a home owner will transfer the ownership of all or part of their home to a commercial or 'not for profit' organisation. Depending on the terms of the HRS, the funds released may be paid to the home owner in full on the date of the transfer, or may be translated into an annuity, or a combination of these.

Where a HRS results in the home owner receiving an annuity or where payments are made by instalments be they for life or for a fixed period, then all such payments will be treated as income, unless any of the following provisions apply:

- Where certain detailed conditions set out in CRAG relating to annuities are met, then specified amounts comprised within the gross income from the annuity can be disregarded, namely, the component of the gross income which represents the weekly amount of interest on the loan (net or gross of income tax, where applicable);
- Where any part of the income or capital derived from a HRS plan is used to fund capital developments or disability related works to the property in question, the income so used may be disregarded from the charge calculation. The service user must produce evidence to this effect in order to claim such a disregard;
- Where the released funds are paid in instalments the total value of all the instalments outstanding will be added to the total value of all other savings held by the service user. If this total exceeds the current CRAG upper capital limit, the instalments will be treated as income and taken into account over a period equivalent to that which it represents, e.g. a payment due to be made calendar monthly is taken into account for a calendar month; and
- If this total is less than the current CRAG upper capital limit, each instalment will be treated as capital.

Other forms of equity release schemes will be considered on an individual basis. Additional information about equity release schemes can be obtained from the Access For All team on 01635 503050.

Appendix 4 Disability Related Expenditure – guide amounts

ITEM	AMOUNT	EVIDENCE
Heating Allowance	<p>Single Person – Flat / Terrace £1,157 per year Couple – Flat / Terrace £1,526 per year Single Person – Semi Detached £1,229 per year Couples – Semi Detached £1,619 per year Single Person – Detached £1,495 per year Couples – Detached £1,1970 per year Difference between actual and average (above) will be divided by 52 to obtain a weekly expenditure.</p> <p>NB Where an individual lives in shared accommodation the allowance appropriate to the size of property they require will be used e.g. where 3 individuals share a property their share of the bills will be considered against those of a single person</p>	Bills from Provider
Community Alarm System	Actual cost unless included in Housing Benefit or Supporting People Grant.	Bills from Provider
Privately arranged care	Actual cost if included in care assessment to meets critical need and can not be met by West Berkshire Council.	Signed receipts for at least 4 weeks using a proper receipt book
Dietary needs	Max £2.96 pw if more than £25.85 pw per person is spent on food and non-alcoholic drinks AND dietary needs are identified in care assessment	
ILF	Client contribution as assessed by ILF	ILF award letter
Wheelchair/Scooter	<p>£3.71 pw manual wheelchair £9.03 pw powered wheelchair</p>	Evidence of purchase. Care manager or OT to confirm that this is an essential requirement. No allowance if equipment is provided free of charge
Powered Bed	Actual cost divided by 500 (10 yr life) up to a maximum of £4.16 pw.	Care manager or OT to confirm that this is an essential requirement. Evidence of purchase.
Turning Bed Actual	cost divided by 500 up to a maximum of £7.20 pw.	Care manager or OT to confirm that this is an essential requirement. Evidence of purchase.

Powered reclining chair	Actual cost divided by 500 up to a maximum of £3.27 pw	Evidence of purchase.
Stair-lift	Actual cost divided by 500 up to a maximum of £5.82 pw	Evidence of purchase without DFG input
Hoist	Actual cost divided by 500 up to a maximum of £2.85 pw	Evidence of purchase without DFG input
Wear and tear on clothing	Max £5.00 pw if more than £5.00pw is spent on replacements and need is identified in care assessment	Receipts
Wear & tear on bedding	Max £2.50pw if need is identified in care assessment	Receipts
Incontinence Aids	Not allowed unless identified in the care assessment that NHS supplies cannot be used or are inadequate.	Receipts
Chiropodist	Actual cost if identified in Assessment and NHS chiropodist not available. Based on 6 weekly visits.	Receipts
Hair Washing	Actual cost of washing & drying allowed where service user is unable to wash their own hair, and hair wash is not part of the care package. Actual average weekly costs up to £7.50/week	Receipts
Medical and chemist items	Consider items that should be made available via prescription. Allow cost of annual pre paid prescription divided by 52 weeks or actual cost, whichever is lower.	Receipts. Request for future receipts to be kept if unavailable
Travel costs	Costs net of any DLA Mobility Component may be allowed if they are incurred solely or mainly due to disability and the critical need is identified in the care assessment.	Receipts
Adaptations to property	Cost net of any Disabled Facilities Grant will be considered if they are critical to the individuals assessed care need, will be taken into account where any capital uses does not have an affect on the assessment. If capital was below the lower threshold then the cost will be allowed over 5 years	Receipts
Other Costs	As identified in the care assessment to meet an individuals critical care needs that are not excluded DRE items	Receipts

Appendix 5 Glossary of Terms

Basic Income Support

This term refers to the basic level of Income Support **or** guarantee level of pension credit (for individuals over pensionable age). The amount considered 'basic' is annually determined by the Department of Work and Pensions.

Charging for Residential Accommodation Guide (CRAG) Published by the

Department of Health and available at:

www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance

CRAG offers guidance to Local Government Authorities on financially assessing individuals for contributions to services.

Day Care Services are for the elderly and people with disabilities and offer a range of activities and college tutored courses.

Direct Payments are payments made to an individual to allow them to meet their own support needs rather than services being provided directly by the Council

Guarantee Credit (Pension Credit Guarantee) Replaced Income Support for people over pensionable age. If your income is below a certain level, the guarantee credit makes up the difference.

Home Care/ Home Support services can include:

- Intimate personal care
- Prompting of medication
- Preparation and cooking of food
- Specialised help for service users suffering from Dementia.

Income Support A benefit for people with a low income. It can be paid on its own if you have no other income, or it can top up other benefits or earnings to the basic amount the law states people need to live on.

Intermediate Care is a coordinated short term care arrangement of up to six weeks to enable people to maximise their level of independence in order for them to remain living in the community.

Personal Budgets are an allocation from the Council to an individual eligible for social care support based on an assessment of need. The individual can use this allocation in the most appropriate way to meet his support needs, either by deciding what services the Council should provide, or, if they would like to obtain the services themselves, by receiving a Direct Payment.

Protected income

The non residential financial assessment process will always ensure that individuals whose capital is below the upper capital threshold will retain a level of income equal to the *basic income support* (Explained above) plus a 25% buffer. This is the *Protected Income*.

Savings Credit (Pension Credit Savings)

For people aged 65 and over, this is intended to reward people who have made provisions for retirement above the basic state pension.

Tariff Income

Where individuals have capital of £14,250 or more, but less than £23,250 (based on the 2011 – 12 rates), an assumed level of income (£1 per week for every £250) will be included in the financial assessment. This is called *Tariff Income*.

Charging Policy for Residential Care Services

Document Control

Document Ref:		Date Created:	
Version:		Date Modified:	April 2014
Revision due	April 2015		
Author:	Jo England	Sign & Date:	
Owning Service			
Equality Impact Assessment: (EIA)	Date undertaken:		
	Issues (if any):		
Chief Executive	Sign & Date:		
Corporate Director (Community Services)	Sign & Date:		
Councillor Joe Mooney Portfolio holder for Community Care		Signed off by individual decision following WBC 2010 Budget / Fees & Charging update	

Change History

Version	Date	Description	Change ID
1	December 2006	Policy review and updated in line with CRAG	1
1.1	April 2007	Policy reviewed and minor amendments	1.1
1.2	April 2008	Policy review and updated in line with CRAG	1.2
1.3	April 2009	Policy review and updated in line with CRAG	1.3
1.4	April 2010	Policy review and updated in line with CRAG. With specific changes to respite information	1.4
1.5	April 2011	Policy review and updated in line with CRAG	1.5
1.6	April 2012	Policy review and updated in line with CRAG	1.6
1.7	April 2013	Policy review and updated in line with CRAG	1.7
1.8	April 2014	Policy reviewed in line with CRAG	1.7

Contents

Scope	3
Statutory framework	3
Services and circumstances where no charge is made	3
Financial assessment	4
Allowable expenses	5
Charge calculation	6
Twelve Week Property Disregard	7
Deferred Payments	7
Appeals Process	7
Review of Charges	8

Scope

This policy applies to all service users to receive a residential/nursing care service from West Berkshire Council and should be read in conjunction with West Berkshire Council Fair Access to Care Services Policy, West Berkshire Council Deferred Payments Policy and Charges for Residential Accommodation Guidance [CRAG].

Statutory framework

Councils have had the power to charge for residential care services provided by social services since the introduction of the 1948 National Assistance Act. Where a resident is unable to pay either the standard rate or the actual full cost incurred by the local authority, the local authority must assess their ability to pay using regulations made for this purpose. These are The National Assistance (Assessment of Resources) Regulations 1992 (SI2977).

Consideration of the Disability Discrimination Act and Human Rights Act requires that an equitable approach to charging is taken and that no group is unfairly discriminated against.

All service users will be financially assessed in accordance with Charges for Residential Accommodation Guidance [CRAG]. Charging for residential accommodation guide (CRAG), in support of the National Assistance (Assessment of Resources) Regulations 1992 (SI 1992/2977), gives guidance to local authorities on charging for residential accommodation. It is issued under Section 7(1) of the Local Authority Social Services Act 1970 which requires local authorities to exercise Social Services functions under guidance of Secretary of State.

Services and circumstances where no charge is made

Some services are excluded from the charging process altogether in accordance with CRAG where there is no legal authority to charge: -

- After-care services under the Mental Health Act (Section 117).
- Any services funded by the local Health Authority under continuing care.

All other residential services will be chargeable, including any residential element funded by community services for placements at a residential college.

Respite

From April 2010 service users in receipt of a short term Respite service will be subject to an assessment using Fairer Charging principles for any short term respite care. Any respite care that exceeds 56 consecutive nights (8 weeks) will be assessed a temporary resident in accordance with CRAG.

Financial assessment

To ensure that everyone is treated fairly each individual will have a financial assessment at the point when they are allocated a residential care service provided by West Berkshire Council. This assessment will be based on the user's overall income, capital/savings and allowable expenditure. The Council will ensure that service users will have access to appropriate benefits advice at the time of the assessment. In West Berkshire service users are referred to the Welfare Benefit Team by the Care Manager and the financial assessment and benefit advice will be undertaken by specialist Welfare Benefit & Financial Assessment Officers.

Guidance notes about charges will be given to individuals at the same time as they enter the care assessment process so that people will not commit themselves to particular care plans without knowing what they might be required to pay. Service users will be given a record of how their charge has been calculated and informed that they have a right to be re-assessed should their circumstances change and advised how they can ask for a re-assessment.

The care services will be allocated in accordance with the criteria set out in the Department of Health guidance Fair Access to Care Services which provides councils with a framework for setting their eligibility criteria for adult social care. The framework is based on individuals' needs and associated risks to independence, and includes four eligibility bands - critical, substantial, moderate and low. West Berkshire Council's level is currently critical. For further information please see West Berkshire Council Fair Access to Care Services Policy.

If a service user does not wish to disclose their finances or fails to disclose their finances then they will be charged the full cost of their total services.

Any service user who has capital/savings in excess of the maximum figure as set out in the Charges for Residential Accommodation Guidance [CRAG] will be charged the cost of the service received without a financial assessment. Capital and savings can include cash, funds held in a bank, building society and Post Office accounts, saving bonds, premium bonds, stocks and shares, ISAs, Peps, Value of land or property (other than the home in which they live). This list is not exhaustive.

Ex gratia payments made to former Far Eastern prisoners of war and payments made under the Vaccine Damage Payment scheme will be disregarded entirely in line with guidance in CRAG. From 2 October 2006 all lump sum personal injury awards will be ignored as capital for a maximum period of 52 weeks from the day the payment is received. The treatment of all capital/savings will be in line with the guidance in CRAG.

If savings/capital are held in joint names, an equal proportion will be assumed unless there is evidence to prove otherwise. The savings/capital held solely by a service users partner will be disregarded.

Any service user who has capital/savings less than the maximum figure as set out in CRAG will have a tariff income, based on benefit rules added to their income when they are financially assessed.

The following income and capital will always be disregarded:

- the mobility component of Disability Living Allowance
- first £10 of any War Disablement Pension/Armed Forces Compensation Scheme and War Widows Pension, however any Constant Attendance Allowance paid will be included in full
- All income from a charitable or voluntary source and income derived from personal injury trust funds will be wholly disregarded from 2 October 2006
- first £15 of any regular maintenance payment received
- An element of any Savings Credit element of Pension Credit as per CRAG
- Up to 50% of any Private/Occupational Pension where a partner remains at home (although consideration needs to be given to the partners benefits)
- Any property that is not wholly disregarded as per CRAG and was the service users main home before moving into care will be disregarded for the first 12 weeks from the date the placement became permanent
- All of a partner's income is also ignored

All other income will be used in the assessment along with tariff income from savings/capital.

Allowable expenses

Allowable expenses for temporary residents and those residents subject to Deferred Payments will include

- Accommodation cost - rent less Housing Benefit
Mortgage less Income Support
- Service charges - Any charge for housing services not covered by benefit
- Water Rates/Charges
- Council Tax (less Council Tax Support)
- Building Insurance – actual amount not including contents insurance
- Building Maintenance (set amount per week)

Where the expenditure is a joint expenditure then 50% of the expenditure will be allowed, unless it can be shown that the service user is responsible for 100% of the expenditure.

Permanent residents are not normally considered to have outgoings as they no longer have a home in the community. However, it maybe that the client still has outgoings eg while a property is for sale, subject to 12 week property disregard or during the notice period for a rented property. In these cases the Personal Expenses Allowance can be increased.

Charge calculation

CRAG implies that the individual will have one assessed charge for all services. All services will be added together before a service user is financially assessed.

All service users who are subject to a financial assessment will always be left with the appropriate Personal Expense Allowance (PEA).

The minimum PEA is set each year by the Department of Health, however the PEA can be varied; allowing West Berkshire Council the discretion in 'special circumstances' to increase the minimum amount;

- where the service user needs to keep more of their income in order to lead a more independent life. Any variation will be subject to consideration by the Care Manager and Financial Assessment Officer to deem whether the variation is to pay for activities and services that will significantly contribute to the service users independence and wellbeing
- where the service user has a dependent child, the needs of the child should be considered
- where a service user is a temporary resident any element of Income Support or Pension Credit that is payable for a partner should not be included and the needs of the partner need to be considered so that they are not left without enough money to live on
- to cover outgoings on a property while it is being sold, subject to the 12 week property disregard or during the notice period at the end of a tenancy

Temporary Resident/Trial Period

All Temporary Residents who are placed for a trial period will be financially assessed but will have allowable expenses included in their assessment. Temporary Residents who are in receipt of Attendance Allowance or Disability Living Allowance (care component) will have this benefit disregarded from any financial assessment while they are classed as a Temporary Resident.

Permanent Resident

Permanent Residents may be subject to several financial assessments in the first few months of becoming resident. This is due to changes in benefit income, which will result in the need for a new financial assessment for each change. These new financial assessments will be undertaken by the Welfare Benefit & Financial Assessment Officers.

In the first four weeks any element of Attendance Allowance/Disability Living Allowance (care component) and the Severe Disability Premium of Income Support/Pension Credit that are in payment are included as income in the financial assessment. The Enhanced Disability Premium of Income Support will also be included.

Attendance Allowance/Disability Living Allowance (care component) is withdrawn after four weeks in hospital and/or residential care. If a client moves into residential care

following a stay in hospital Attendance Allowance/Disability Living Allowance (care component) may have already ceased or cease sooner than four weeks as the stay in hospital may count towards the first four weeks.

After any element of Attendance Allowance/Disability Living allowance (care component) that was in payment ends, the Enhanced Disability Premium of Income Support and the Severe Disability Premium of Income Support/Pension Credit will also end. This will mean that a revised financial assessment will need to be done.

After 12 weeks any property that has been disregarded will either need to be subject to a continuing disregard where there is a remaining resident as per CRAG or if the property has not been sold a revised assessment will need to be done and a legal charge placed on the property. Service users will be offered a Deferred Payment under the Deferred Payment Scheme. For clients subject to a legal charge on their property Attendance Allowance/Disability Living Allowance (care component) is reinstated after the 12 week property disregard and should be used in the revised financial assessment from week 13 along with any allowable expenditure.

Twelve Week Property Disregard

All new permanent residents including self funding clients can request funding from the local authority for the first 12 weeks and have their property disregarded for that period. The 12 week property disregard only takes effect from the date they became permanent. They will however be subject to a financial assessment and the suspension of any Attendance Allowance/Disability Living Allowance (care component) after 4 weeks.

Deferred Payments

In accordance with Regulations made under the Health and Social Care Act 2001 (Section 55) West Berkshire Council operates a Deferred Payments Scheme to allow people to defer the sale of their home where it is needed to fund care home fees.

It also allows the Deferred Payment Scheme to be offered to people who decide to sell their home but it is unlikely that the home will be sold quickly enough to meet the full cost of the care home fees.

For further details please refer to West Berkshire Council's Deferred Payments Scheme Policy.

Appeals Process

The service user has the right to ask for a review of their assessment and the charges, which have been determined as part of West Berkshire Council's Charging Appeals Policy and Procedure.

Review of Charges

Charges will be reviewed by West Berkshire Council on an annual basis as part of the Best Value Review and service planning. Service Users can request a review at anytime following a change in income or savings.

This policy will be updated annually to reflect any changes in West Berkshire Council policy of government legislation.

Equality Impact Assessment Template

Name of item being assessed:	Charging Policy
Version and release date of item (if applicable):	Version 1
Owner of item being assessed:	Jo England
Name of assessor:	Jo England
Date of assessment:	27/2/15

1 What are the main aims of the item?

(What does the item try to achieve?)

Due to the Care Act previous charging legislation will be revoked on 31 March 2015

2 What are the results of your research?

Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this.

(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)

Group Affected	What might be the effect?	Information to support this.

Further Comments relating to the item:

No groups currently subject to charging will be effected by these changes

3 What actions will be taken to address any negative effects?

Action	Owner	By When?	Outcome

4 What was the final outcome and why was this agreed?

(Was the item adjusted, rewritten or unchanged? Refer to page 15 of *Meeting the Equality Duty in Policy and Decision Making* for more information.)

Accept the new policy

5 What arrangements have you put in place to monitor the impact of this decision?

Not required as no changes to individuals

6 What date is the Equality Impact Assessment due for Review?

Signed:

Date:

Appendices:

(list all documents that have supported this EqIA)

Appendix A: DH – consultation briefing note

Department of Health – Briefing Note
Implementing the Care Act: do councils need to consult locally?

This note sets out general principles to consider when a council is deciding whether to carry out a local consultation process in relation to how it intends to discharge functions under the Care Act.

This does not constitute formal guidance or advice, but is intended to set out certain points to consider in adopting an approach. The need to consult will depend on a number of factors and the decision on whether to consult is ultimately one for councils to take. Councils should always seek their own legal advice if there is any uncertainty as to whether consultation is required.

The note does not comment on the nature of public consultations (approach, length etc.), but only whether a consultation may be necessary. Councils will have established processes to ensure that consultations are adequate and sufficient.

Issues to consider

The following four questions are intended to address some of the principles to consider:

- *Is this a statutory requirement?*

A council would only usually be expected to consult locally where it is using its discretion in relation to the exercise of a particular function. Where the council is required by a statutory duty to perform a particular function, it is likely that further local consultation will not be necessary (unless there is a statutory duty to consult).

However, whilst the Care Act (and regulations) place duties on councils to do certain things, there is much discretion around *how* those functions are performed. For example, there is a duty to carry out an assessment, but discretion as to many of the aspects of how that assessment is undertaken. Where a council makes proposals for how a function should be carried out, then it may be necessary to consult on those proposals, depending on the answers to the questions below.

The Care Act also provides a number of broad powers for councils to carry out certain functions. Where a council chooses to exercise those powers, it may similarly be necessary to consult on how it intends to do so.

- *Is anything actually changing?*

The Care Act consolidates and updates over six decades of adult social care law. In discharging functions under the Act, therefore, councils will often be carrying out functions similar to existing ones and continuing practice that has been long-established.

It is possible that exercising a power under the Care Act will have no effect on the status quo, and where this is the case, the council may not be expected to consult locally. For example, if a council exercises its power under Section 14(1) of the Act to charge for residential care, this will be no change to the previous requirement to do so under the National Assistance Act 1948. Such a decision on its own should not normally trigger a need to consult, unless the circumstances fall within the paragraphs below.

- *To what extent are people affected?*

If the council proposes an approach that does lead to a change in policy (or is a new policy), then the need to consult locally may be triggered depending on the nature of the expected

impact on people using services, carers or others, and on whether the council has promised that particular aspects of its practices will change (e.g. charging will stop) or not change. Where the proposals impact negatively on individuals, it is likely that the council would be expected to consult locally. For example, if a group is identified as being likely to be worse off as a result of the change (for example in terms of outcomes, services or finances), consultation would normally be expected.

If effect of the proposal is only to create “winners” – i.e. people who benefit – then it may not be necessary to consult, subject to the answer to the fourth question below.

If the council has promised that it will not change particular aspects of its practice and it proposes to do so, or if it has promised to make particular changes and it intends not to make those changes, this might give rise to a duty to consult.

- *Has the council committed to consultations in the past?*

If the council has committed to consult locally in relation to a particular issue or group, then it would normally be expected to do so, irrespective of the answers to the questions above. Some councils may have standing procedures for consultation and commitments (e.g. by way of an express promise) to consult on issues regardless of other circumstances. In other cases, councils may have established an expectation around local consultation through regular practice, even in the absence of a formal commitment. In such cases where a parallel can be drawn between implementing the Care Act and previous practice on local consultation, councils should take legal advice if they propose not to follow established practice or earlier undertakings.