
Charging Policy for Residential Care Services

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1	December 2006	Policy review and updated in line with CRAG	1
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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.