

## Individual Decisions

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The attached reports will be taken as  
Individual Portfolio Member Decisions on:

**Thursday, 1st April, 2010**

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<b>Ref:</b>	<b>Title</b>	<b>Portfolio Member(s)</b>	<b>Page No.</b>
ID1969	<b>West Berkshire Council Domestic Abuse Policy</b>	Councillor Graham Pask	1 - 40
ID2041	<b>Moving Respite Charging from Residential Charging to Fairer Charging Policy</b>	Councillor Joe Mooney	41 - 84



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## Individual Executive Member Decision

<b>Title of Report:</b>	<b>West Berkshire Council Domestic Abuse Policy</b>
<b>Report to be considered by:</b>	Individual Executive Member Decision
<b>Date on which Decision is to be taken:</b>	01 April 2010
<b>Forward Plan Ref:</b>	ID1969

**Purpose of Report:** To seek approval from the Executive Member for Partnerships, Cleaner Greener & Safer Stronger Communities of the attached West Berkshire Council Domestic Abuse Policy.

**Recommended Action:** That the Executive Member for Partnership, Cleaner Greener & Safer Stronger Communities approves the attached West Berkshire Council Domestic Abuse Policy.

**Reason for decision to be taken:** This policy does not currently exist and a recommendation from the Pemberton Domestic Homicide Review Report was that it should be developed and implemented

**Statutory:**       **Non-Statutory:**   
**Other:**

**Other options considered:**

**Key background documentation:** The Domestic Abuse Policy for Staff & Guidance for Staff and Managers, agreed by Personnel Committee, are also attached as they are crucial documents and relate to the overall WBC Domestic Abuse Policy

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Graham Pask - Tel (01635) 864023
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## Implications

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<b>Policy:</b>	The implications on policy are set out in these documents.
<b>Financial:</b>	There may be funding implications in relation to training staff on domestic abuse issues.
<b>Personnel:</b>	Ideally, managers and staff in all service areas will be required to have a knowledge of domestic abuse, how to spot the signs and where to signpost. The Council would therefore need to provide some training for staff.
<b>Legal/Procurement:</b>	Equality Bill 2009. Gender Equality Duty 2007 Coordinated Community Response Model. National Domestic Violence Delivery Plan: Annual progress report 2007/08. Human Rights Act 1998 Domestic Violence, Crime and Victims Act 2004. Pemberton Domestic Homicide Review Report Recommendations 2008
<b>Environmental:</b>	None
<b>Partnering:</b>	None
<b>Property:</b>	None
<b>Risk Management:</b>	Without these policies in place, there is an increased risk of another domestic homicide taking place in West Berkshire.
<b>Community Safety:</b>	Domestic abuse has been identified as the top priority in West Berkshire through the Strategic Assessment and we also have an LAA2 target to reduce repeat cases to the MARAC.
<b>Equalities:</b>	Equality Bill 2009 & Gender Equality Duty 2007

## Consultation Responses

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### Members:

<b>Leader of Council:</b>	Graham Jones
<b>Overview &amp; Scrutiny Management Commission Chairman:</b>	Brian Bedwell
<b>Select Committee Chairman:</b>	Quentin Webb
<b>Ward Members:</b>	
<b>Opposition Spokesperson:</b>	Roger Hunneman
<b>Local Stakeholders:</b>	Domestic Abuse Forum, Berkshire Women's Aid, Thames Valley Police, NHS Berkshire West PCT, Sovereign South+West and Cllr Gwen Mason

**Officers Consulted:** Margaret Goldie, Corporate Director Children & Young People; Jo McIntyre, Domestic Abuse Reduction Co-ordinator; Cathy Burnham, Education Services Manager; Marion Mottram, Contact Centre Operations Manager; Sue Gore, Principal Environmental Health Officer; Juliet Penley, Children's Service Manager; Jacqueline Bennett, Housing & Performance Quality Manager; Mandy James, Community Service Manager, MHT; Sue Pearson, Head of Fir Tree Primary School; Nick Stewart, Socail Care Training Officer; Andrew Wheldon, Principal Benefits Officer

**Trade Union:** N/A

**NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.**

<b>Is this item subject to call-in.</b>	Yes: <input checked="" type="checkbox"/>	No: <input 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	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by OSC or associated Task Groups within preceding 6 months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

## Supporting Information

### 1. Background

- 1.1 Domestic abuse affects all communities. The abuse can be psychological, physical, sexual or emotional. It can include 'honour-based violence', female genital mutilation, and forced marriage. Domestic abuse accounts for 16% of all reported violent incidents. It has more repeat victims than any other crime, with repeat victimisation accounting for 73% of all incidents of domestic violence, and over one in four victims having been victimised three or more times. In 2001 in England and Wales, domestic violence was estimated to cost a total of £23 billion.
- 1.2 Following the murders of Julia and William Pemberton by Alan Pemberton in West Berkshire in November 2003, the Domestic Homicide Review Report was published in November 2008. An action plan was developed to respond to the recommendations included in the report and the following place direct responsibilities on the Council:-
- (1) Recommendation 3: Agencies to recognise the importance of leadership from senior staff in relation to the development of policy and strategy, giving direction to the delivery of front line services to the victims of domestic abuse and their families.
  - (2) Recommendation 4: Local Councils to recognise the need to exercise their strategic role as community leaders in relation to domestic abuse.

- (3) Recommendation 5: Each agency to ensure that it contributes positively to the development of a multi agency strategy, services and practice.
- (4) Recommendation 8: The Local Safeguarding Children Board and partner agencies for child protection to ensure that staff fully recognise the many forms domestic abuse can take, the impact of domestic abuse on parenting and the need to ensure that children and young people are given the opportunity to have their own voice heard.

## **2. WBC Domestic Abuse Strategy Group**

- 2.1 A WBC Domestic Abuse Strategy Group, chaired by Margaret Goldie, has been set up to oversee the development of policy and practice relating to domestic abuse and oversee the implementation of the WBC related actions within the recommendations in the Pemberton Domestic Homicide Review Report.
- 2.2 This group has developed the following policies, and approval is being sought in this report for the West Berkshire Council Domestic Abuse Policy. The Domestic Abuse Policy for Staff and Domestic Abuse Policy (for staff) Guidance for Staff and Managers has already been approved by Personnel Committee, however copies are attached as they are crucial documents and relate to the overall Council Domestic Abuse Policy .
  - (1) West Berkshire Council Domestic Abuse Policy
  - (2) Domestic Abuse Policy for Staff
  - (3) Domestic Abuse Policy (for staff) Guidance for Staff
  - (4) Domestic Abuse Policy (for staff) Guidance for Manager
- 2.3 The West Berkshire Council Domestic Abuse Policy sets out what the Council hopes to achieve in relation domestic abuse, as a provider of services to the residents of West Berkshire, as a supporter of organisations working in this field and as a large employer in the area. A copy is attached at Appendix A.
- 2.4 The Domestic Abuse Policy for Staff sets out the Council's approach to supporting employees who are the victims of domestic violence or abuse and a copy is attached at Appendix B. The Guidance for Staff is provided to support employees who are experiencing domestic abuse or violence and the Guidance for Managers is provided to support managers where employees are experiencing domestic abuse or violence. A copy of the Guidance for Staff is attached at Appendix C and for Managers at Appendix D.
- 2.5 The process of writing these has identified a need for staff training across the council as any Council Officer or Member could be dealing with a victim of domestic abuse. An initial plan would be to train all managers (those that have line manager responsibilities, including supervisors) and information received from HR suggests that there are 391 managers out of 1865 staff. The WBC Strategic Domestic Abuse Group is currently exploring the options available in relation to training.

## **3. Local Area Agreement (LAA) Targets**

- 3.1 West Berkshire Council was given two domestic abuse LAA1 targets of:

- (1) Increasing the number of incidents of domestic abuse reported to the police
  - (2) Decreasing the number of repeat incidents reported to the police
- 3.2 We achieved our first LAA1 target to increase the number of incidents of domestic abuse reported to the police and the Council was awarded £315,000 for this target, however we did not achieve the target to reduce repeat incidents.
- 3.3 We now have an LAA2 target in relation to the number of repeat cases of domestic abuse referred to the Multi Agency Risk Assessment Committee (MARAC) for a multi agency safety plan to be developed for the victim and their family. The LAA2 target is to ensure that no more than 28% of all cases referred to the MARAC during the period April 2009 – March 2011 are repeat cases.

#### **4. Consultation**

- 4.1 The Policy has been distributed to all the consultees mentioned earlier in this report and support has been received from both Cllrs Gwen Mason and Roger Hunneman. Cllr Mason has also commented that the Council will need to ensure that all Managers and above attend training on domestic abuse.

#### **5. Recommendations**

- 5.1 In view of the above, it is recommended that the Council approves the West Berkshire Council Domestic Abuse Policy attached at Appendix A through an Individual Executive Member Decision.

### **Appendices**

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Appendix A – West Berkshire Council Domestic Abuse Policy

Appendix B – Domestic Abuse Policy for Staff

Appendix C – Domestic Abuse Policy (for staff) Guidance for Staff

Appendix D – Domestic Abuse Policy (for staff) Guidance for Managers

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**Appendix A**




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# Domestic Abuse Policy, Guidance and Procedures

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**Document Control**

<b>Document Ref:</b>		<b>Date Created:</b>	July 2009
<b>Version:</b>	1.0	<b>Date Modified:</b>	
<b>Revision due</b>			
<b>Author:</b>	Rachel Craggs	<b>Sign &amp; Date:</b>	
<b>Owning Service</b>			
<b>Equality Impact Assessment: (EIA)</b>	Date undertaken		
	Issues (if any)		

<b>Chief Executive</b>	Sign & Date	
<b>Corporate Director (Community Services)</b>	Sign & Date	
<b>Corporate Director (Children &amp; Young People)</b>	Sign & Date	
<b>Corporate Director (Environment)</b>	Sign & Date	

**Change History**

Version	Date	Description	Change ID
1			
2			
3			

## Appendix A

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## Appendix A

### 1. Purpose

- 1.1 The purpose of this policy is to set out what the Council hopes to achieve in relation to domestic abuse, as a provider of services to the residents of West Berkshire, as a supporter of organisations working in this field and as a large employer in the area.
- 1.2 The policy forms a key part of West Berkshire's Safer Communities Partnership Plan 2008-11 and links to a number of policies and procedures relating to domestic abuse held within other service areas of West Berkshire Council, listed at the end of this document.
- 1.3 The aims of the policy are to:-
- reduce domestic abuse in West Berkshire;
  - support those who are experiencing domestic abuse - both service users and employees;
  - raise awareness of domestic abuse - its implications for the services that we provide within the community and its affects within the workplace;
  - ensure that all the Council's employees understand the important role they and their service can play in tackling domestic abuse and take responsibility for it in order to develop a consistent approach across the council;
  - set out what we may be able to do if employees are perpetrators of domestic abuse.
- 1.4 The Chief Executive and Corporate Board have approved the Domestic Abuse Policy.

### 2. Applicability

- 2.1 This Policy applies to all employees working for the Council including those working from home or at non-Council locations and Elected Members.
- 2.2 It is the responsibility of each employee to familiarise themselves with and adhere to this Policy.
- 2.3 This Policy has been the subject of consultation with Heads of Service and Trade Unions and has been ratified by the Council's Corporate Board.
- 2.4 West Berkshire Council has adopted the following definition of domestic abuse:-

*'The term 'domestic abuse' shall be understood to mean any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality. This includes issues of concern to black and minority ethnic (BME) communities such as so-called 'honour killings'.*

See the guidance associated with this policy for practical examples.

- 2.5 The guidelines and procedures set out in this document will also apply to other relationships. Where children are involved this policy should be read in conjunction with the [Berkshire Local Safeguarding Children Board Child](#)

## Appendix A

[Protection Procedures](http://proceduresonline.com/berks) (available on the internet at <http://proceduresonline.com/berks>).

- 2.6 Abuse against vulnerable adults will be dealt with through the “Safeguarding Adults Policies & Procedures 2008”, which are available from the Community Services Directorate.

### 3. Policy

- 3.1 It is the Policy of the Council to ensure that:
- 3.2 Employees in relevant front line services have appropriate awareness training to be able to identify when to provide information and direction to services providing support for people experiencing domestic abuse.
- 3.3 The Contact Centre makes a record of any call in relation to domestic abuse and refers the person to either Berkshire Women’s Aid, Thames Valley Police, the Housing Options Team, Social Care or other support and directs them to the Domestic Abuse website.
- 3.4 People who are experiencing domestic abuse are able to access advice and support from housing officers on remaining safely in their own homes, on re-housing, and on emergency accommodation.
- 3.5 Employees know that maintaining confidentiality is of crucial importance to the safety of a woman or man experiencing domestic abuse. The Council will not involve other agencies or share information without the consent of the service user concerned unless:
- 3.6 we are required to do so by law, or
- 3.7 the information is necessary for the protection of children
- 3.8 Where children and young people are living in a situation involving domestic abuse, the Council will consider whether they are at risk of harm and need protection or support.
- 3.9 An internal management review is undertaken immediately following a domestic abuse homicide so that learning can inform changes to policy and practice at the earliest opportunity. In the event of the death or serious injury of a child, evidenced consideration must be given to the requirement for a Serious Case Review.
- 3.10 Employees who are experiencing, or have experienced, domestic abuse can raise the issue with their employer, in the knowledge that the Council will treat the matter sympathetically, confidentially and effectively. If necessary, managers will take actions to ensure the safety of the employee at work or on the journey to work, and will consider temporary or permanent changes to working arrangements to support the employee.

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### 4. Implementation

- 4.1 This Policy will be supported and implemented by the procedures and guidance in Sections 7 to 12 below.

### 5. Roles and responsibilities

- 5.1 The overall responsibility for the Domestic Abuse Policy within WBC rests with the West Berkshire Council Domestic Abuse Strategic Group.
- 5.2 The responsibility for day-to-day management of the Domestic Abuse Policy throughout West Berkshire Council rests with Heads of Service.
- 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 staff have an individual responsibility to adhere to this Policy and any relevant standards and/or procedures.

### 6. Review

- 6.1 The Service/Committee/Group responsible for reviewing and maintaining this Policy is the West Berkshire Council Domestic Abuse Strategic Group.
- 6.2 This Domestic Abuse Policy will be reviewed in the light of a multi agency West Berkshire Domestic Abuse strategy that is to be developed during 2009. The Domestic Abuse Strategy will be developed by the West Berkshire Council Domestic Abuse Strategic Group on behalf of the West Berkshire Safer Communities Partnership.
- 6.3 The policy and procedures will then be reviewed and updated every 2 years or whenever there is a relevant policy or legislative change. This will be reported to the West Berkshire Council Domestic Abuse Strategic Group, Corporate Board and finally to West Berkshire Council Executive.
- 6.4 Objectives for achieving the aims set out in this policy will be reviewed and set every year. This will be reported to the appropriate Portfolio Member and to Executive. Details of objectives and targets will also be set out in each Directorate's Service Plan and monitored through the service planning process.
- 6.5 An important part of the monitoring and evaluation process will be consultation with, survivors of Domestic Abuse, key voluntary sector agencies such as Berkshire Women's Aid, Victim Support and employees of the Council

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### Guidance and Procedures for Dealing with Domestic Abuse

#### 7. Definition of “domestic abuse”

7.1 West Berkshire Council has adopted the following definition of domestic abuse:-

*‘The term ‘domestic abuse’ shall be understood to mean any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality. This includes issues of concern to black and minority ethnic (BME) communities such as so-called ‘honour killings’.*

7.2 Examples of domestic abuse include:

- Physical abuse, e.g. slapping, pushing, kicking, pulling hair, burning, punching and stabbing, attempted murder or murder
- Sexual abuse e.g. rape and non consensual sex acts, being forced to watch pornography, being spoken to in a sexually degrading way, indecent phone calls.
- Emotional or psychological abuse e.g. intimidation, isolation, verbal abuse, humiliation, degradation, not allowing friends or relatives to visit or phone, destruction of belongings, threat of legal sanctions e.g. deportation, custody of children etc.
- Financial abuse, denial of rights or restriction of personal freedom e.g. withholding money or medical help.

7.3 Domestic abuse can take place in a range of situations, including;

- where a woman is the victim;
- where a man is the victim;
- where children are witnesses to domestic abuse;
- where the carer is a victim
- lesbian, gay and transgender relationships;
- where the victim is a child or young person under 18 years old;
- where the victim is a more vulnerable adult i.e., an older or disabled person.

#### 8. Who might experience domestic abuse?

8.1 In the majority of cases victims of domestic abuse are women with the majority of perpetrators being men. On average, men who experience domestic abuse make a report straight away. However, women tend not to report domestic abuse immediately and, on average, will experience domestic abuse 35 times before asking for help<sup>1</sup>. A primary focus of this policy therefore is abuse committed against women, because we believe that tackling domestic abuse is about pursuing equality and raising the status of women in society.

8.2 Research suggests that 1 in 4 women and 1 in 6 men will experience domestic abuse at some point in their lives<sup>2</sup>. Domestic Abuse is not limited to any particular class, ethnic or social group. It affects women of all ages; both black women and white women, disabled and non-disabled women. The experience of domestic

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<sup>1</sup> (Tearnsire, S. “Analysis of Cohort”, in Bewley, S Friend, J and Mezey G (eds) Abuse Against Women. London, RCOG, 1997).

<sup>2</sup> (Andrews 1987, Painter 1991, Mooney J 1994)

## Appendix A

abuse may differ as a result of these different situations. For black women, for example, their experience may be affected by daily racism. Domestic Abuse not only causes damage to its immediate victims, but also affects children, families and communities.

8.3 If children witness domestic abuse they are likely to show signs of great distress including anxiety, sleep disorders, aggression, truancy, drug and alcohol use, or self harm. Academic attainment may be poor. Recent research indicates significant neuro-cognitive differences in those children involved in domestic abuse.

8.4 Domestic Violence occurs among people at all income levels and among people from all black, white and minority ethnic backgrounds. In terms of national trends of domestic violence and ethnicity, British Crime Survey findings show little variation in the experience of inter-personal violence by ethnicity<sup>3</sup>.

### 9. Why does the Council have this policy?

9.1 West Berkshire Council believes that:

- we have a strategic role in reducing domestic abuse;
- domestic abuse is unacceptable and should not be tolerated;
- abuse in relationships is an abuse of power as well as likely to be a criminal offence;
- domestic abuse occurs in all communities and affects people particularly women of all backgrounds;
- domestic abuse affects not only children and families but the whole community;
- victims of domestic abuse and their families may present themselves to any West Berkshire Council Service Area;
- domestic abuse may be a workplace issue, because we have a responsibility for the welfare of our employees.

9.2 The Council has the following statutory duties:-

- to act in accordance with the European Convention of Human Rights (Human Rights Act 1998, particularly Articles 2 and 8);
- to provide for the well being of its citizens (Local Government Act 2000);
- to do all it reasonably can to prevent crime and disorder in its area (Crime and Disorder Act 1998);
- to assist people fleeing domestic abuse with finding suitable accommodation (Part VII and Part II of the 1996 Housing Act);
- to secure alternative accommodation for those who are made homeless through domestic abuse (Part VII the Housing Act 1996);
- to develop a Homelessness Strategy in line with the Homelessness Act 2002;
- to protect children and young people (Children Act 1989, United Nations Convention on the Rights of the Child 1991);
- to ensure that we provide good value for money in the services that we deliver to our residents (Best Value – Local Government Act 2000).

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<sup>3</sup> Walby and Allen (2004)

## Appendix A

- 9.3 Both the West Berkshire Council and the Safer Communities Partnership Plans include a priority to reduce domestic abuse.

### 10. Confidentiality

- 10.1 The individual's right to confidentiality is paramount. The Council will ensure that employees know that maintaining confidentiality is of crucial importance to the safety of a woman or man experiencing domestic abuse. This will also apply where we are contracting with external providers (e.g. transport, building works etc) and we will make this explicit in our contracts with them.
- 10.2 West Berkshire Council will only involve other agencies or share information with the consent of the service user concerned, unless:
- we are required to do so by law, or
  - the information is necessary for the protection of children.
- 10.3 For employees experiencing and receiving support for domestic abuse, any disclosure would remain confidential as far as is reasonably practicable within the Council's duties as an employer.

### 11. Children and young people living with domestic abuse

- 11.1 Where children and young people are living in a situation involving domestic abuse West Berkshire Council recognises the need to consider whether they are at risk of harm and need protection or support.
- 11.2 While domestic abuse and child abuse do not always exist together it can be an important indicator of a child at risk of harm from either actual physical, sexual and/or emotional abuse or by exposure to abusive relationships.
- 11.3 In addressing the interests of children living with domestic abuse, it is important to remember that there is no typical case and children respond and cope differently. However, it is recognised that living in an atmosphere that is potentially violent can effect the growth and development of children and contributes to poor mental health in young people.
- 11.4 Guidance for addressing the affects of domestic abuse on children and young people has been set out by Berkshire Local Safeguarding Children Boards (LSCB) Pan Berkshire Child Protection Procedures. These procedures are consistent with The Children Act 1989 and the United Nations Convention on the Rights of the Child.

### 12. Domestic abuse and child protection

- 12.1 Following any referral to Children's Social Care with regard to domestic abuse, the possibility of child abuse must be explored and this will include listening to the child him/herself.
- 12.2 Where there are concerns, Council officers should make a referral to the Children & Young People's Directorate or Thames Valley Police under the LSCB Pan Berkshire Child Protection Procedures. Some of the following information will be important in determining whether a referral needs to be made. **This is not an exhaustive checklist:**



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- How often does the abuse occur and how recent was the last incident?
- What happened during the most recent incident of domestic abuse and what specifically did the child do?
- Could the child be returning to a potentially violent situation? Is the child concerned about what might happen today/tonight/tomorrow?
- Have the Police or other agencies been involved?
- Are weapons threatened or used?
- Has the child intervened and/or has the child been hurt during an incident?
- Who else was involved?

12.3 As outlined in Recommendation 10 of the Pemberton Domestic Homicide Review report, an internal management review must be undertaken immediately following a domestic abuse homicide so that learning can inform changes to policy and practice at the earliest opportunity; in the event of the death or serious injury of a child, evidenced consideration must be given to the requirement for a Serious Case Review.

### 13. Support for individuals subject to domestic abuse

13.1 The Council can provide specific help and support to those experiencing domestic abuse and their families through the Contact Centre and Housing Operations Teams. The Contact Centre will make a record of the call and be able to refer the person to either Berkshire Women's Aid, Thames Valley Police, the Housing Options Team, Social Care or other support and direct to the Domestic Abuse website. (See the flow chart at Appendix 1).

13.2 People experiencing abuse may present at any frontline WBC service such as Benefits, Environmental Health, Council Receptions etc. The staff member needs to identify who in their service has knowledge on signposting for domestic abuse. This is likely to be their Line Manager who will have received training.

13.3 The Council advocates the use of the Domestic Abuse Stalking & Harassment Risk Identification Tool (DASH). Training on this can be provided and an online training tool is available from [www.caada.org.uk](http://www.caada.org.uk)

13.4 Telephone numbers for West Berkshire Council Customer Services and Housing Operations Teams and other agencies who can help can be found at appendix 1 of this document.

13.5 A full list of all the agencies that can provide practical and emotional help are detailed in the West Berkshire Domestic Abuse Forum's Domestic Violence & Abuse Directory of Services, which is available either on the West Berkshire Domestic Abuse website [www.domesticabusewb.org.uk](http://www.domesticabusewb.org.uk) or from the West Berkshire Domestic Abuse Reduction Co-ordinator at 20 Mill Lane, Newbury RG14 5QU.

13.6 The West Berkshire Domestic Abuse Forum is a broad-based group of agencies made up of representatives from agencies who are working in the field of domestic abuse. The main members of this forum are:

- Berkshire Women's Aid
- Berkshire Victim Support

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- West Berkshire Council
- Thames Valley Police
- Crown Prosecution Service
- NHS Berkshire West
- Sovereign Housing Association
- Local solicitors

### 14. Domestic abuse and housing

- 14.1 West Berkshire Council has a statutory duty to assist victims of domestic abuse under the Housing Act 1996 as amended by the Homelessness Act 2002.
- 14.2 A victim of domestic violence can approach the Housing Operations Team for advice and assistance on housing they via the phone, internet, front desk from Monday – Thursday 8.30 -5.00, Friday from 8.30 – 4.30 and via our offsite drop in sessions. An emergency out of hours service is also available for clients who are threatened with homelessness.
- 14.3 Anyone suffering from domestic abuse as defined by this policy, who contacts the Housing Operations Team can expect the following response:
- We will arrange for the client to speak to the duty Housing Options Officer on the day they approach us for assistance.
  - The client can speak to the Options Officer in one of our private interview rooms
  - and if necessary we will arrange for an interpreter
  - We will not ask them to prove that they have experienced abuse;
  - We will listen to them and give them time to explain their situation;
  - We will not contact the person responsible for the abuse unless requested to do so by the victim. As an alternative, in exceptional circumstances at some point in the future it may be necessary to contact the perpetrator about resolving a tenancy matter, but only after any issues about safety have been considered.
  - We will not insist that they take legal action against the violent person but offer advice regarding contacts should they wish to pursue this.
  - We will not pass on messages from the perpetrator to the victim or act as a go between;
  - We will treat all information they give us in confidence and we will only pass on information to other agencies if they give their permission, unless we are required to do so by law, or the information is necessary for the protection of children;
  - If they experience more problems in the future, they can come back to us for help.
- 14.4 If an officer has concerns about the safety of a child s/he will inform the relevant manager in line with the Berkshire LSCB Child Protection Procedures;
- 14.5 There are many types of practical support that Housing officers can offer to someone reporting domestic abuse. These options include:
- (i) Support and security measures for people who want to stay in their own home

## Appendix A

- (ii) Emergency accommodation for those fleeing domestic abuse
- (iii) Advice on future rehousing options

### 15. Support to people who want to stay in their own home

- 15.1 Some victims of domestic abuse do not wish to leave their home and will be seeking advice and assistance to help them remain there in safety. Alternatively, some clients may not be aware of other options to re-housing.
- 15.2 Housing officers are aware that there are legal procedures, which seek to protect victims from abusive partners and allow them to remain in their homes. These include for example Occupation Orders and non-molestation orders. However, such measures are not always quick or effective and clients will always be advised to seek legal advice before considering them. We cannot find a solicitor to act on behalf of a client although we can provide information about solicitors in the area. Council officers will never seek to influence an applicant's decision.
- 15.3 Regardless of a woman or man's tenancy, the Housing Operations Team can:
- Arrange emergency accommodation on a temporary basis;
  - Arrange for the free installation of additional security measures under the Safer Spaces scheme, which will be available from April 2009;
  - Offer support and advice from a Housing Officer about tenancy enforcement and legal aspects of injunctions and other housing options as well as offer further support from an Advice and Support Worker about practical help available from other agencies;
  - If relevant, liaise with Housing Benefit section to ensure double payments (emergency accommodation and tenancy) if necessary. This could apply when a woman or man is forced to leave home and live in temporary accommodation and is therefore liable to pay 2 rents;
  - Make a referral to other council directorates such as Children & Young People's Services, Community Services and other organisations that can help;
  - Arrange for floating support to assist the applicant and their family through West Berkshire floating Support or Berkshire Womens Aid Floating Support.
- 15.4 Domestic abuse victims may need immediate assistance with obtaining money, clothes etc. For people not in emergency accommodation, a referral to the Benefits Agency can be made if required.

### 16. Emergency accommodation pending re-housing

- 16.1 The Council can offer emergency accommodation to people who are experiencing domestic abuse which may be their own or through another agency. Requests for emergency accommodation can be made to a Housing Officer at the West Berkshire Council offices in Market Street, Newbury. Emergency accommodation can be arranged outside of West Berkshire where this is necessary. If accommodation is needed after 4.30pm a referral should be made to the Out of Hours Emergency Service, Tel: 01635 519530.
- 16.2 Those accommodated in emergency hostels will usually be assisted with obtaining money and clothes where this is needed. However, it is helpful for hostel staff to be informed of this.

## Appendix A

- 16.3 West Berkshire manages a Krash Pad facility which can be used as emergency accommodation for those threatened with homelessness. The Krash pad is a self contained furnished property which can offer clients a safe environment while longer term solutions to housing issues can be sought.
- 16.4 West Berkshire Council work closely with Berkshire Women's Aid who can often assist with emergency accommodation for women fleeing domestic abuse with a refuge anywhere in the country, this ensures the applicant receives the support, assistance and safe accommodation needed for the applicant to rebuild their life.

### 17. Re-housing options

- 17.1 Officers can provide advice on all the options relating to re-housing including housing associations, private rented sector, supported Housing Schemes and Shared Ownership Schemes.
- 17.2 The Council offer a Threshold Loan scheme which can assist with access to the private rented sector through rent in advance and deposit guarantee letters
- 17.3 The Housing Operations team offers floating support to assist clients sustain and maintain their tenancies.
- 17.4 West Berkshire Council Work closely with Berkshire Women's aid to house and support victims of domestic abuse
- 17.5 Housing Grant may be used to assist clients into appropriate accommodation and prevent homelessness
- 17.6 The council work closely with Two Saints Hostel and YMCA to rehouse clients and provide support packages.
- 17.7 The Housing Operations Team can work with clients to ensure they have all of the points they are entitled to on the common housing register. They can advise on medical and social needs points and can assist clients with bidding on properties each week.

### 18. Support for employees who are experiencing domestic abuse

- 18.1 Domestic Abuse is not just a service delivery issue. It is an issue that affects all sections of society, and it is therefore important that we have clear and effective responses to help minimise the impact of domestic abuse on Council employees.
- 18.2 West Berkshire Council believes that every employee who is experiencing, or has experienced, domestic abuse has a right to raise the issue with their employer, in the knowledge that the Council will treat the matter sympathetically, confidentially and effectively. The Council's approach to supporting employees who are the victims of domestic abuse is set out Domestic Abuse (Staff) Policy (December 2008).
- 18.3 Managers need to develop an awareness of the issues around domestic abuse and how they may sensitively approach this. They also need to ensure the employee is offered support if domestic abuse is an issue that has been disclosed to them and guidance for managers is set out in the document entitled 'Domestic Abuse (Staff) – Guidance for Managers' (December 2008).

## Appendix A

### 19. Information, support and training for employees and managers

- 19.1 The Council recognises the need to ensure that all employees are aware of domestic abuse issues and its impact on the work place. The following approaches will be used to support the implementation of this policy:
- The core skills needed to address domestic abuse issues will be built into the core competencies that will be required of all managers within the Council;
  - A summary of this policy will be produced and disseminated to all employees and the full policy will be placed on the intranet;
  - All Council employees will receive an information leaflet informing them of the policy and help available;
  - Specific training will be provided, where appropriate, for those frontline employees who are most likely to deal with instances of domestic abuse, to ensure that they have the necessary skills to support someone who is reporting this to them.
- 19.2 The Council advocates the use of the Domestic Abuse Stalking & Harassment Risk Identification Tool (DASH). Training on this can be provided and an online training tool is available from [www.caada.org.uk](http://www.caada.org.uk)
- 19.3 Awareness raising courses will be aimed initially at employees with a housing management role, those working with homeless people and employees from community support projects;
- 19.4 The Children & Young People's Directorate includes domestic abuse as a core element within its training programme on child protection and within training for Social Work employees on assessments. All Social Work staff engaged in child protection work will undertake this training; other key employees, such those in Education Welfare, will also undertake the training.

## Other Relevant Documentation

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- Domestic Abuse (Staff) Policy 2008
- Domestic Abuse (Staff) – Guidance for Managers 2008
- Berkshire Local Safeguarding Children Boards' Child Protection Procedures
- Cross Team Working within Social Services Protocol
- Handling an incident – the Director's 'need to know' system
- Mental Capacity Act procedures
- Safeguarding Adults' Policies and Procedures 2008
- Care Management in West Berkshire – Principles and Standards
- Mental Health Policies and Procedures
- Guidance on Adult's Services on accessing services for children
- Housing Act 1996 and the Homeless Act 2002
- West Berkshire Homelessness Strategy
- Children & young People's Plan 2008-2011 'A fair and equal chance for all children and young people.'
- Education Service Development Plan
- Safe to Live and Learn – West Berkshire's anti-bullying strategy

**Appendix A**

- Vulnerable People Protocol
- Customer Services Domestic Abuse Working Policy
- Environmental Health statement on signposting domestic abuse

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## Appendix A

### Appendix 1 – Useful Telephone Numbers

West Berkshire Council Customer Services	01635 42400
West Berkshire Council Housing Operations Team	01635 519530
Number diverts to Emergency team out of hours	
Berkshire Women's Aid	0118 950 4003
Childline	0800 11 11
Royal Berkshire Hospital A&E	0118 322 7020
West Berkshire Community Hospital	01635 273300
West Berkshire Council Community Care Team	01635 519050
Out of hours (Via Bracknell Emergency Duty Team)	01344 786543
Thames Valley 24hr Police (non emergency)	0845 8 505 505
The Samaritans	08457 909 090
Victim Support National Telephone Support Line	0845 30 30 900
<b>National Domestic Abuse Helpline</b>	<b>0808 2000 247</b>

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**Appendix B**




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# Domestic Abuse (Staff) Policy

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**Document Control**

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1			
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3			

*This Policy is not for publication externally*

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## Appendix B

### 1. Purpose

- 1.1 The purpose of this policy is to set out the Council's approach to supporting employees who are the victims of domestic violence or abuse.
- 1.2 The Chief Executive and Personnel Committee have approved the Policy.

### 2. Applicability

- 2.1 This Policy applies to all employees working for the Council, including those working from home or at non-Council locations.
- 2.2 This Policy has been the subject of consultation with Heads of Service and Trade Unions and has been ratified by the Council's Corporate Board.

### 3. Policy

- 3.1 It is the Policy of the Council to ensure that every employee who is experiencing, or has experienced, domestic abuse or violence;
  - 3.1.1 Is able to raise the issue with their manager in the knowledge that the Council will treat the matter sympathetically, confidentially and effectively.
  - 3.1.2 Is able to access support from the Council as their employer including, where appropriate;
    - Additional paid or unpaid leave
    - Flexible working arrangements
    - Access to the Council's occupational health service or confidential counselling service.
  - 3.1.3 As far as possible, is safe at work from the perpetrator or abuser;
  - 3.1.4 Is not subject to discrimination at work as a result of experiencing or disclosing the abuse.
- 3.2 The Council will ensure that guidance and training are provided to managers to be able to support employees who are experiencing domestic violence or abuse.
- 3.3 All employees are expected to abide by the Council's Code of Conduct and Disciplinary Rules. Bullying, harassment and violence at work are all potential disciplinary offences and will be investigated under the terms of the Disciplinary Procedure, which could result in disciplinary action including dismissal.
- 3.4 Employees who are charged with criminal offences outside work related to domestic violence or abuse may be investigated under the terms of the Disciplinary Procedure, which could result in disciplinary action including dismissal.

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### 4. Definition

4.1 Domestic abuse is any incident of threatening behaviour, violence or abuse between adults who are or have been in a relationship together, or between family members, regardless of gender or sexuality.

4.2 This includes issues of concern to black and minority ethnic (BME) communities such as so called 'honour based violence', female genital mutilation (FGM) and forced marriage.

4.3 Family members can be defined as mother, father, son, daughter, brother, sister, and grandparents, whether directly related, in laws or stepfamily.

### 5. Implementation

5.1 This Policy is supported and implemented by [Guidance for Managers](#) (see appendix).

5.2 Half day Domestic Violence/Abuse Awareness (Level 1) sessions are included in the [Social Care and Corporate Training Programme](#) and are open to all employees.

### 6. Roles and Responsibilities

6.1 The overall responsibility for this policy within WBC rests with Human Resources. HR are also responsible for maintaining this Policy, for reviewing all related policies and procedures and for providing advice and guidance on their implementation.

6.2 The responsibility for day-to-day management of this policy throughout West Berkshire Council rests with Heads of Service.

6.3 All managers are directly responsible for implementing this Policy within their service areas, and for the adherence of their staff and others.

### 7. Review

7.1 This policy will be reviewed to respond to any changes and at least every 3 years.

### 8. Other Relevant Documentation

- Guidance for Managers – Domestic Violence Against Employees
- Additional Leave Procedure
- [Avoiding Bullying and Harassment at Work Guidance](#)
- [Domestic Abuse Leaflet](#)
- [Domestic Violence and Abuse - Directory of Services](#)
- [Friends and Family Domestic Abuse Leaflet](#)

**Appendix C**



<h2 style="margin: 0;">Domestic Abuse (Staff) – Guidance for Employees</h2>	Reference:	HRDA002
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<b>Head of Service:</b>		<b>Sign &amp; Date:</b>	
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## Appendix C

### 1. Purpose

- 1.1. This guidance is provided to support employees who are experiencing domestic abuse or violence.

### 2. Applicability

- 2.1. The guidance applies to all West Berkshire Council employees, and to employees in schools where appropriate. It is based on the West Berkshire Council Domestic Abuse (Staff) Policy which can be found on the Council's website.

### 3. Definition

- 3.1. Domestic violence is any incident of threatening behaviour, violence or abuse between adults who are or have been in a relationship together, or between family members, regardless of gender or sexuality.
- 3.2. This includes issues of concern to black and minority ethnic (BME) communities such as so called 'honour based violence', female genital mutilation (FGM) and forced marriage.
- 3.3. Family members can be defined as mother, father, son, daughter, brother, sister, and grandparents, whether directly related, in laws or stepfamily.

### 4. Background

- 4.1. Domestic violence or abuse is an issue which affects all sections of society, and it is therefore important that we have clear and effective responses to help minimise the impact of domestic violence on Council employees.
- 4.2. West Berkshire Council believes that every employee who is experiencing, or has experienced, domestic violence or abuse has a right to raise the issue with their employer, in the knowledge that the Council will treat the matter sympathetically, confidentially and effectively.

### 5. The Role of your Manager

- 5.1. If you are experiencing domestic violence, you can approach your manager with problems in the first instance.
- 5.2. Your manager should take a sensitive approach and ensure you are offered support as this may mean that you are able to deal with the situation more effectively.
- 5.3. If you do wish to discuss domestic violence with your manager, he/she should:
  - Ensure discussions take place in privacy and are confidential as far as possible;
  - Take you seriously, taking time to listen, believe what you say and ensuring a non judgmental approach;
  - Understand that you may wish to involve a third party, such as a colleague, trade union representative, or friend, rather than speak to your line manager;
  - Be aware that there may be additional issues facing you because of your age, gender, sexuality, ethnic background, race or disability;
  - Explore what support is available, explore options, and support up in whatever you decide to do.

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5.4. You may prefer to contact;

- The Human Resources Operations team directly to seek a referral to the Council's confidential counselling service;
- Their trade union representative or the Union Staff Co-ordinator (on 01635 519168);
- The Domestic Violence National Helpline: **0808 2000 247**.

## 6. Safety at Work

- 6.1. The Council, as an employer, has a duty to ensure that its employees are safe at work, including from violence or abuse from colleagues, visitors or others.
- 6.2. Where there is the potential for domestic abuse or violence to occur in the workplace, your manager should assess the risk to you, and to other employees if relevant, and put measures in place to reduce the risk. Your manager should consider the risk of violent partners or ex-partners visiting the workplace, abusive phone calls, or intimidation or harassment by the alleged perpetrator. In some cases, the alleged perpetrator may also be an employee of the Council.
- 6.3. Your manager should consider some of the following practical options (see Section 7), in consultation you, taking into consideration the effects of any of these measures on services.

## 7. Options for Action

- 7.1. Your manager can provide advice on support mechanisms for people being abused and their dependents/families. A list of local and national support agencies and contact points can be found on the [West Berkshire Council - Domestic Violence](http://www.westberks.gov.uk/domestic-violence) website (www.westberks.gov.uk/domestic-violence). Further information can be found on the Directgov website ([www.direct.gov.uk/en/CrimeJusticeAndTheLaw/VictimsOfCrime](http://www.direct.gov.uk/en/CrimeJusticeAndTheLaw/VictimsOfCrime))
- 7.2. Your manager has a duty to maintain a secure environment for all employees. To do this it may be necessary to explore, with you, the possibility of informing colleagues of potential risks. If you agree to this approach, colleagues should be reminded that the information is confidential.
- 7.3. Other options for action include:



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- 7.3.1. Improving security measures, such as changing keypad numbers or ensuring that access to buildings is only open to authorised employees and visitors;
- 7.3.2. Reminding all employees, particularly reception and switchboard employees, not to divulge information about other employees, especially personal details such as addresses, telephone numbers or shift patterns;
- 7.3.3. Where reasonably practicable, particularly where the alleged perpetrator is a colleague, consider offering temporary or permanent changes in workplace;
- 7.3.4. Considering work times and patterns, so as to ensure you are less at risk at work, and on your journeys to and from work. This could include changes to the office layout to ensure that you are not visible from reception points or from ground floor windows;
- 7.3.5. Offering changes in specific duties, such as answering phones or working in a reception area or, in exceptional circumstances, seeking another post, if alternative arrangements cannot be easily found;
- 7.3.6. Agreeing what to tell colleagues and how they should respond if the abuser rings or calls at the workplace. Providing colleagues or porters with a photograph of the abuser and other relevant details, such as car registration numbers, may help to maintain security in the workplace;
- 7.3.7. Making sure that the systems for recording your whereabouts during the day are adequate and, if the work requires visits outside the office, considering how risks can be minimised (e.g. changing duties or allowing another colleague to accompany you on certain journeys);
- 7.3.8. Considering requests for alternative working arrangements as covered in the Mobile and Flexible Working Policy.
- 7.3.9. Considering paid or unpaid time off. WBC's Additional Leave Policy allows paid or unpaid leave, at the discretion of the Head of Service, in cases of an unforeseen personal or domestic crisis.
- 7.3.10. Considering changes to payment arrangements because your partner has access to their finances or is applying financial pressure on you, and/or considering changing contact/correspondence address.
- 7.3.11. Considering referral to Occupational Health or to Human Resources for referral to the confidential counselling service.

## 8. Attendance at Court

- 8.1. If you are summoned as a witness in a criminal court case, you will be granted leave under the Council's Additional Leave Policy. You must claim an allowance from the court for loss of earnings and the Council will make up any difference between that and normal pay.
- 8.2. Additionally if there are circumstances where you are seeking an injunction or order, in cases of violence or harassment, time-off with pay may be considered under the Additional Leave Policy.

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### 9. Confidentiality

- 9.1. Information about employees experiencing and receiving support for domestic violence should remain confidential as far as it is reasonably practicable. **You will be asked whether you agree to your report being recorded for monitoring purposes. This will include an option to make an anonymous report. Reports will be collated confidentially by the HR Manager for Operations.**
- 9.2. Once you have confided to your line manager that you are experiencing domestic abuse or violence, your manager should reassure you that he/she will keep this information confidential, unless there are circumstances that warrant sharing it. This could include where there are child protection issues.
- 9.3. If you give information that suggests that a child is at risk from abuse (whether physical, emotional, sexual or neglect, or as a witness to abuse), your manager should inform you that he/she will be make a referral to the Council's Referral and Assessment Team on 01635 503090.

### 10. Employees who are perpetrators of domestic violence

- 10.1. All employees are expected to abide by the Council's Code of Conduct and Disciplinary Rules. Bullying, harassment and violence at work are all potential disciplinary offences and will be investigated under the terms of the Disciplinary Procedure, which could result in disciplinary action including dismissal.
- 10.2. Employees who are charged with criminal offences outside work related to domestic violence or abuse may be investigated under the terms of the Disciplinary Procedure, and could result in disciplinary action including dismissal.

### 11. Further information

- 11.1. WBC Domestic Abuse Forum have produced the following documents;
  - Domestic Violence Leaflet
  - Domestic Violence and Abuse Directory of Services
  - Friends and Family Domestic Abuse Leaflet
- 11.2. These can be accessed on the internet at [www.westberks.gov.uk/domesticviolence](http://www.westberks.gov.uk/domesticviolence). The website contains many other links to helpful organisations including;

**Appendix D**



<b>Domestic Abuse (Staff) – Guidance for Managers</b>	Reference:	HRDA002
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**Related Documents**

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## **Appendix D**

### **1. Purpose**

- 1.1. This guidance is provided to support managers where employees are experiencing domestic abuse or violence.

### **2. Applicability**

- 2.1. The guidance applies to all West Berkshire Council managers, and to managers in schools where appropriate. It is based on the West Berkshire Council Domestic Abuse (Staff) Policy which can be found on the Council's website.

### **3. Definition**

- 3.1. Domestic violence is any incident of threatening behaviour, violence or abuse between adults who are or have been in a relationship together, or between family members, regardless of gender or sexuality.
- 3.2. This includes issues of concern to black and minority ethnic (BME) communities such as so called 'honour based violence', female genital mutilation (FGM) and forced marriage.
- 3.3. Family members can be defined as mother, father, son, daughter, brother, sister, and grandparents, whether directly related, in laws or stepfamily.

### **4. Background**

- 4.1. Domestic violence or abuse is not just a service delivery issue. It is an issue which affects all sections of society, and it is therefore important that we have clear and effective responses to help minimise the impact of domestic violence on Council employees.
- 4.2. West Berkshire Council believes that every employee who is experiencing, or has experienced, domestic violence or abuse has a right to raise the issue with their employer, in the knowledge that the Council will treat the matter sympathetically, confidentially and effectively.

### **5. The Manager's Role**

- 5.1. Employees who are experiencing domestic violence may not feel able to tell people at work of their situation or approach their manager with problems in the first instance. However, you may become aware of the situation as a result of other issues such as frequent absence from work, poor performance or an employee's partner frequently contacting them at work. In these circumstances, you should consider if domestic abuse may be an underlying cause and take this into account when dealing with the situation.
- 5.2. If an employee discloses domestic abuse or violence to you, it is important to take a sensitive approach and ensure the employee is offered support. Offering appropriate support may mean that the employee is able to deal with the situation more effectively.
- 5.3. When dealing with a report of domestic violence from an employee, as a manager you should:

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- Ensure discussions take place in privacy and are confidential as far as possible;
- Take the employee seriously, taking time to listen to them, believing what they tell you and ensuring a non judgmental approach;
- Understand that an employee may wish to involve a third party, such as a colleague, trade union representative, or friend, rather than speak to their line manager;
- Be aware that there may be additional issues facing the employee because of their age, gender, sexuality, ethnic background, race or disability;
- Explore what support is available, explore options, and support the employee in whatever they then decide to do.

5.4. If you feel you require additional guidance and support on how to deal with a case of domestic violence reported to you, please contact the HR Operations Advice Line for Managers on 01635 503033. If you think a child or young person is suffering harm, or is at risk of harm, you can contact the Referral and Assessment team on 01635 503090.

5.5. Employees may prefer to contact;

- The Human Resources Operations team directly to seek a referral to the Council's confidential counselling service;
- Their trade union representative or the Union Staff Co-ordinator (on 01635 519168);
- The Domestic Violence National Helpline: **0808 2000 247**.

## 6. Safety at Work

6.1. The main responsibilities of employers and employees for the health and safety of people at work are defined by the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999. The Council, as an employer, has a duty to ensure that its employees are safe at work, including from violence or abuse from colleagues, visitors or others.

6.2. Where there is the potential for domestic abuse or violence to occur in the workplace, managers should assess the risk to the employee, and to other employees if relevant, and put measures in place to reduce the risk. The manager should consider the risk of violent partners or ex-partners visiting the workplace, abusive phone calls, or intimidation or harassment of an employee by the alleged perpetrator. In some cases, the alleged perpetrator may also be an employee of the Council.

6.3. Managers should consider some of the following practical options, in consultation with the employee, taking into consideration the effects of any of these measures on services. Managers should record any discussion with the employee in confidential supervision notes, including any mutually agreed actions (see below).

## 7. Options for Action

7.1. Managers can provide advice on support mechanisms for employees being abused and their dependents/families. A list of local and national support agencies and contact points can be found on the [West Berkshire Council - Domestic Violence](http://www.westberks.gov.uk/domestic-violence) website ([www.westberks.gov.uk/domestic-violence](http://www.westberks.gov.uk/domestic-violence)). Further information can be found on the Directgov website ([www.direct.gov.uk/en/CrimeJusticeAndTheLaw/VictimsOfCrime](http://www.direct.gov.uk/en/CrimeJusticeAndTheLaw/VictimsOfCrime))

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- 7.2. Managers have a duty to maintain a secure environment for all employees. To do this it may be necessary to explore, with the employee concerned, the possibility of informing colleagues of potential risks. If the employee agrees to this approach, colleagues should be reminded that the information is confidential.
- 7.3. Other options for action include:

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- 7.3.1. Improving security measures, such as changing keypad numbers or ensuring that access to buildings is only open to authorised employees and visitors;
- 7.3.2. Reminding all employees, particularly reception and switchboard employees, not to divulge information about other employees, especially personal details such as addresses, telephone numbers or shift patterns;
- 7.3.3. Where reasonably practicable, particularly where the alleged perpetrator is a colleague, consider offering temporary or permanent changes in workplace;
- 7.3.4. Considering work times and patterns, so as to ensure the employee is less at risk at work, and on their journeys to and from work. This could include changes to the office layout to ensure that the employee is not visible from reception points or from ground floor windows;
- 7.3.5. Offering changes in specific duties, such as answering phones or working in a reception area or, in exceptional circumstances, seeking another post, if alternative arrangements cannot be easily found;
- 7.3.6. Agreeing what to tell colleagues and how they should respond if the abuser rings or calls at the workplace. Providing colleagues or porters with a photograph of the abuser and other relevant details, such as car registration numbers, may help to maintain security in the workplace;
- 7.3.7. Making sure that the systems for recording employee whereabouts during the day are adequate and, if the work requires visits outside the office, considering how risks can be minimised (e.g. changing duties or allowing another colleague to accompany them on certain journeys);
- 7.3.8. Considering requests for alternative working arrangements as covered in the Mobile and Flexible Working Policy.
- 7.3.9. Considering paid or unpaid time off for employees who have disclosed that they are experiencing domestic violence. WBC's Additional Leave Policy allows paid or unpaid leave, at the discretion of the Head of Service, in cases of an unforeseen personal or domestic crisis.
- 7.3.10. Considering changes to payment arrangements because their partner has access to their finances or is applying financial pressure on them and/or considering changing contact/correspondence address.
- 7.3.11. Considering referral to Occupational Health or to Human Resources for referral to the confidential counselling service.

## 8. Recording Incidents at Work

- 8.1. All incidents of violence or threatening behaviour in the workplace, including persistent phone calls, e-mails or visits to an employee by the alleged perpetrator should be recorded on the Council's [WebRisk](#) system. The Council has a statutory duty to maintain a safe place of work, which necessitates the need to monitor and record all such incidents. You should also record witnesses to these.
- 8.2. Records of incidents could be used if the employee wants to press charges or apply for an injunction against the alleged perpetrator. The Council could assist an



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employee to apply for an injunction if the actions of an alleged perpetrator affect the health and safety of that employee.

### 9. Attendance at Court

- 9.1. Under the Council's Additional Leave Policy, an employee summoned as a witness in a criminal court case will be granted leave. The employee must claim an allowance from the court for loss of earnings and the Council will make up any difference between that and normal pay.
- 9.2. Additionally if there are circumstances where an employee is seeking an injunction or order, in cases of violence or harassment, time-off with pay may be considered under the Additional Leave Policy.
- 9.3. Any absences or applications for additional leave should be recorded by managers in accordance with normal Council procedures once permission of the Head of Service has been granted.

### 10. Confidentiality

- 10.1. Information about employees experiencing and receiving support for domestic violence should remain confidential as far as it is reasonably practicable. Those experiencing domestic violence will be asked whether they agree to their report being recorded for monitoring purposes. This will include an option to make an anonymous report. Reports will be collated confidentially by the HR Manager for Operations.
- 10.2. Once an employee has confided to their line manager that they are experiencing domestic abuse or violence, the manager should reassure them that they will keep this information confidential, unless there are circumstances that warrant sharing it. This could include where there are child protection issues.
- 10.3. If an employee gives information that suggests that a child is at risk from abuse (whether physical, emotional, sexual or neglect, or as a witness to abuse), the manager should inform the employee that they will make a referral to the Council's Referral and Assessment Team on 01635 503090.

### 11. Employees who are perpetrators of domestic violence

- 11.1. The issues surrounding domestic violence can be complex and advice should be sought from the Human Resources Operations Team if an alleged perpetrator is an employee.
- 11.2. All employees are expected to abide by the Council's Code of Conduct and Disciplinary Rules. Bullying, harassment and violence at work are all potential disciplinary offences and will be investigated under the terms of the Disciplinary Procedure, which could result in disciplinary action including dismissal.
- 11.3. Employees who are charged with criminal offences outside work related to domestic violence or abuse may be investigated under the terms of the Disciplinary Procedure, and could result in disciplinary action including dismissal.

## Appendix D

### 12. Further information

12.1. WBC Domestic Abuse Forum have produced the following documents;

- Domestic Violence Leaflet
- Domestic Violence and Abuse Directory of Services
- Friends and Family Domestic Abuse Leaflet

12.2. These can be accessed on the internet at [www.westberks.gov.uk/domesticviolence](http://www.westberks.gov.uk/domesticviolence). The website contains many other links to helpful organisations.

ORIGINAL

## Individual Executive Member Decision

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<b>Title of Report:</b>	<b>Moving Respite Charging from Residential Charging to Fairer Charging policy</b>
<b>Report to be considered by:</b>	Individual Executive Member Decision
<b>Date on which Decision is to be taken:</b>	01 April 2010
<b>Forward Plan Ref:</b>	ID2041

**Purpose of Report:** To seek approval to move the financial assessments for respite care from the residential charging to fairer charging policy and implement the Fairer Charging Guidance issued by the Department of Health

**Recommended Action:** That the Executive Member for Community Care approves this move

**Reason for decision to be taken:** To follow guidance issued in the Fairer Contributions guidance by the Department of Health

**Statutory:**       **Non-Statutory:**   
**Other:**

**Other options considered:** none

**Key background documentation:** Fairer Contributions guidance  
 Charging for Residential Accommodation Guidance (CRAG)

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Joe Mooney - Tel (0118) 9412649
<b>E-mail Address:</b>	jmooney@westberks.gov.uk
Contact Officer Details	
<b>Name:</b>	Jo England
<b>Job Title:</b>	Client Financial Services Manager
<b>Tel. No.:</b>	01635 519006
<b>E-mail Address:</b>	jengland@westberks.gov.uk

## Implications

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<b>Policy:</b>	We have the option to charge for respite care using either Fairer Charging or CRAG but with the introduction of Personal Budgets the new Fairer Contribution guidance recommends using Fairer Charging. Currently we use CRAG.
<b>Financial:</b>	By changing the way we assess for respite some clients will be charged less but the net result will be an increase in revenue to the authority
<b>Personnel:</b>	none
<b>Legal/Procurement:</b>	none
<b>Environmental:</b>	none
<b>Partnering:</b>	none
<b>Property:</b>	none
<b>Risk Management:</b>	none
<b>Community Safety:</b>	none
<b>Equalities:</b>	none - EIA completed 19.3.10

## Consultation Responses

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### Members:

<b>Leader of Council:</b>	None received
<b>Overview &amp; Scrutiny Management Commission Chairman: Select Committee Chairman:</b>	No comment
<b>Ward Members:</b>	
<b>Opposition Spokesperson:</b>	Comments re had EIA been done, Capital threshold set by the Department of Health and more detail on the clients adversely affected (more detail added to report)
<b>Local Stakeholders:</b>	405 existing Respite clients
<b>Officers Consulted:</b>	Jan Evans, Laura Timms, Sue Hancock, Amanda Joyce, Leigh Hogan
<b>Trade Union:</b>	Not applicable

***NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.***

<b>Is this item subject to call-in.</b>	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	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input checked="" type="checkbox"/>	
Considered or reviewed by OSC or associated Task Groups within preceding 6 months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

## Supporting Information

### 1. Background

- 1.1 Charging for residential respite care is currently subject to CRAG using a flat rate charge depending on age for the first 28 nights in a financial year. Any nights over 28 nights are then assessed on an individual basis.
- 1.2 This method of charging is historic from when the assessments were undertaken by the Finance Team and was an easier method of assessment for a team that did not have the skills, resources or equipment to undertake an individual assessment for each client.

### 2. Personal Budgets

- 2.1 With the introduction of Personal Budgets and the Fairer Contribution Guidance from the Department of Health it is recommended that charging for residential respite care is subject to a Fairer Charging assessment as opposed to CRAG.
- 2.2 This revised process would mean that the residential respite service will be added to any other services that are currently subject to a Fairer Charging Assessment.
- 2.3 Clients who receive a personal cost will also be charged against the actual monetary cost of the service as opposed to the unit cost set down in the fees and charges as they have the ability to decide where/how their service is purchased within their agreed personal budget amount.

### 3. Budgets

- 3.1 The change to Fairer Charging will result in some clients paying nothing for their residential respite where they currently pay a flat rate charge. Other clients will see an increase in their charge as the assessment will be based on their ability to pay.
- 3.2 The overall net result of moving all clients to Fairer Charging will be an increase in revenue for the West Berkshire Council. Assuming all current clients continue to have respite the annual increase in income will be approx £40K. This will come from those clients adversely affected by the change.
- 3.3 Out of the 405 clients who have had direct payments in the financial year 2009 – 10 a total of 82 clients are expected to be adversely affected by this change. The majority of these clients are full cost clients, who because of the level of their capital (as set by the Department of Health) exceed the upper capital threshold. 22 clients

will have an increase in their charge due to their current Fairer Charging assessment being higher than the flat rate charge. These increase range from £5.90 per week to £130 per week.

- 3.4 It is proposed to introduce a detriment scheme for those clients who have had respite in 2009 -10 who are adversely affected. It is proposed that their charge will increase by 33% each year over the next 3 years until they reach their maximum assessed charge.

#### **4. Long term Respite**

- 4.1 Any Respite that exceeds 56 consecutive nights (8 weeks) will continue to be assessed using CRAG as this is part of the CRAG legislation and outside of the Fairer Contributions guidance.

### **Appendices**

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Appendix A – Fairer Charging Policy  
Appendix B – Fairer Contributions Guidance  
Appendix C – Residential Charging Policy

## Equality Impact Assessment Template – Stage One

<b>Name of item being assessed:</b>	Moving Respite from Residential Charging Policy to Fairer Charing Policy
<b>Version and release date of item (if applicable):</b>	
<b>Owner of item being assessed:</b>	Jo England
<b>Name of assessor:</b>	Jo England
<b>Date of assessment:</b>	19.3.10

### 1 What are the main aims of the item?

Following the fairer Contributions Guidance from the Department of Health we are looking to move charging for Respite from the Residential Charging Policy to the Fairer Charging Policy.

### 2 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, Race, Religion or Belief and Sexual Orientation.)

Group Affected	What might be the effect?	Information to support this.
All	Any client who has respite care will be affected by this change. The affect will be financial. Most clients will be financially better off but a small number will be adversely affected. These clients will have protection so that their cost increases gradually over the next 3 years.	Scoping of all existing respite clients

### Further Comments relating to the item:

--

<b>3 Result (please tick)</b>	
	<b>High Relevance</b> This needs to undergo a Stage 2 Equality Impact Assessment.
	<b>Medium Relevance</b> This needs to undergo a Stage 2 Equality Impact Assessment
	<b>Low Relevance</b> This needs to undergo a Stage 2 Equality Impact Assessment
<b>X</b>	<b>No Relevance</b> This does not need to undergo a Stage 2 Equality Impact Assessment

For items requiring a Stage 2 equality impact assessment, begin the planning of this now, referring to the equality impact assessment guidance and Stage 2 template.

<b>4 Identify next steps as appropriate:</b>	
<b>Stage Two required</b>	
<b>Owner of Stage Two assessment:</b>	
<b>Timescale for Stage Two assessment:</b>	
<b>Stage Two not required:</b>	<b>X</b>

Signed: J England

Date: 18.3.10





## **Fairer Charging Policy for Non-Residential Care Services**

### [CONTENTS](#)

Last Updated:	March 2010
Review Date:	March 2011
Ownership:	Jo England

### **Purpose**

In November 2001 the Department of Health issued guidance for councils with social services responsibilities to ensure that their charging policies are fair and that the overall objectives to promote the independence and social inclusion of service users are upheld.

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## Background

In November 2001 the Department of Health issued guidance for councils with social services responsibilities to ensure that their charging policies are fair and that the overall objectives to promote the independence and social inclusion of service users are upheld. This guidance was followed up with practice guidance documents in February 2002, August 2002 and March 2003, which provided further guidance relating to the implementation of the Fairer Charging Policy for Home Care and other Non-Residential Services.

Charging practices in respect of Non-Residential social services have been shown to vary between councils [Audit Commission report "Charging with Care", May 2000]. The pressure on councils to charge for services has come from increasing demand for Non-Residential services, including the introduction of community care, as well as from the government's funding formula, which assumes that a proportion of costs can be recovered through charges.

In 2009 the Department of Health issued guidelines called Fairer Contributions due to the introduction of Personal Budgets. From April 2010 West Berkshire Council started to charge for all respite care service under Fairer Charging as opposed to CRAG.

## Statutory framework

Councils have had the power to charge for social services since the introduction of the 1948 National Assistance Act. The framework for charging for adult recipients of Non-Residential care was consolidated in 1983 with the Health and Social Security Adjudication's [HASSASSA] Act under which councils can exercise discretionary powers [section 17]. 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.

## Services and circumstances where no charge is made

Some services are excluded from the charging process altogether where there is no legal authority to charge. In addition there may be exclusions of groups of people which, when applied, mean that an individual is exempt from the calculated charge. Examples of exclusions include: -

- After-care services under the Mental Health Act (Section 117).
- Advice and assessment.
- Sufferers of CJD.
- All clients whose income is less than basic Income Support or Pension Credit + 25% will not be charged.
- Individuals receiving intermediate care services.
- Any services funded by the local Health Authority (Section 28A).
- Clients with an assessed charge of less than £1.25 per week.
- Services not wholly funded by West Berkshire Council.

- Double ups.
- Occupational Therapy/Equipment.
- Intermediate Care Services.

## **Services for which a Local Authority can charge**

Councils provide a wide range of non-residential care services, which give essential support to users in order to help them to maintain their independence and dignity. The following services are those for which a charge can be made according to need and after assessment: -

- Personal home care
- Day care
- Transport
- Community Support
- Direct Payments
- Supporting People Services
- Respite care (not exceeding 56 consecutive nights)
- Personal Budgets

## **Services for which West Berkshire Council will charge**

As a general principle, the guidance states charges will reflect the cost of the service and will relate to the hours or units of the service received. In some instances however an average charge may be more reasonable, for example to avoid disadvantaging users in rural areas.

## **Financial assessment**

To ensure that everyone is treated fairly each individual will have a financial assessment at the point where they are allocated a non-residential care service provided by West Berkshire Council. The charge assessment will be based on the user's overall income, allowable expenditure and disability needs. The Council will ensure that service users will have access to appropriate benefits advice at the time of the assessment. In West Berkshire the financial assessment and benefit advice will be undertaken by specialist Welfare Benefit Officers.

Guidance notes (WB 1) 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. 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.

No one will be left with less than the basic income support plus 25% after paying for services. This basic level includes premiums appropriate to the user but not the severe disability premium.

The care services will be allocated in accordance with the criteria set out in the DOH guidance Fair Access to Care Services.

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.

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 will always be disregarded:

- service users earnings
- earnings replacement payments paid by Critical Illness Policies
- the mobility component of Disability Living Allowance
- the night element of the care component of Disability Living Allowance and Attendance Allowance if no nightcare provided by Social Services
- War Disablement Pension/Armed Forces Compensation Scheme and War Widows Pension as per local scheme, however any Constant Attendance Allowance paid will be included
- All income from a charitable or voluntary source and income derived from personal injury trust funds will be wholly disregarded from 9 April 2007
- first £15 of any regular maintenance payment received
- Savings Credit element of Pension Credit
- Working Tax Credit
- Child Tax Credit
- 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.

## **Assessment of disability-related costs**

People with disability will be charged on their full income but will be given extra allowances for disability-related expenditure. This will be an integrated assessment normally in the user's home, consisting of: - income assessment, benefit entitlement assessment and disability expenditure assessment. In assessing disability-related expenditure the council will make allowance for the following actual expenditure: -

- Payment for the reasonable cost of a privately purchased community alarm system, net of housing benefit or Supporting People grant after 2003, provided that this has been deemed a necessary expenditure.
- The costs of privately arranged care services, including respite care in the home, will only be allowed if an occupational therapist or care manager believes it to be an integral part of care. The allowable cost will only be subject to the net cost of the Council providing the service.
- Privately arranged Residential Respite care.
- The costs of using of a laundry service other than that provided by the Council may be allowed in line with charges for the in-house service [currently 40 minutes of home care plus the cost per load]. Additional expenditure, for example for incontinence or specialist soap powders, will be allowed subject to confirmation that this is a necessary expenditure.
- The extra costs of a special diet may be allowed where this is in relation to medical need, confirmed by the GP via the client and not supplied by a prescription.
- The cost of special or additional clothing, shoes or bedding may be allowed where this has been shown to be necessary by an occupational therapist, district nurse or physiotherapist.
- Extra heating costs may be allowed in cases where a GP confirms that this would have a material impact on a person's health.
- The reasonable cost of essential basic garden maintenance may be allowed for service users unable to perform this task for themselves.
- Basic cleaning will be an allowable cost for individuals identified as unable to undertake this task and where the local authority does not provide the service. People living in rented accommodation should only have this cost included if it is not covered by Supporting People.
- The purchase, maintenance and repair of necessary disability-related equipment may be allowable though it may be necessary to verify why the equipment has not been provided through appropriate sources.
- Personal assistance costs, e.g. payment for the transport, meals or holiday costs of carers, may in exceptional circumstances, be allowable.
- The Council will take into account any transport costs above the mobility component of Disabled Living Allowance [DLA].
- Hair washing where an individual is unable to do it for themselves
- Any other disability expenditure that is considered reasonable taking into account the individuals abilities and disabilities
- Alternative therapies where they are not available from the local Health Authority

Allowable Disability Related Expenditure will be for services deemed necessary as a result of disability or for health and safety reasons. Costs arising simply from a matter of personal choice, where a reasonable alternative is available at lesser charge, will not normally be allowed.

The care manager or other professional may be required to assess the need for disability-related expenditure.

Evidence of expenditure will be requested and there will be a requirement for evidence to be kept in future. In the first instance this should be an invoice, failing this, duplicate receipts will be required.

Items for which a Social Fund Community Care Grant has been paid will not be allowed in the assessment.

In some cases only 50% of expenditure may be allowed if it is deemed to be a joint expenditure. However if the expenditure is due to the fact that a carer is not able to undertake the task due to the amount of time they are caring then 100% of the expenditure will be allowed.

## **Other allowable expenses**

Allowable expenses other than disability related expenditure 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 Benefit)
- 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.

## **Charge calculation**

The guidance 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.

The guidance allows for expenses listed above, a buffer of 125% of the basic Income Support personal allowances and disability related expenses as listed above.

The total deductions are then deducted from the total income to give an assessable income of which 100% will be used as chargeable income (prior to April 2008 only 90% was used). If the cost of the total care package is less than the chargeable income then the cost of the care package will be the maximum weekly charge.

## **PERSONAL HOME CARE**

Will be charged at the average cost of the service, which will be reviewed annually and set by Council.

6 April 2009 full charge reflects average charge = £18.35 per hour.

## **COMMUNITY SUPPORT** (in a person's own home or as outreach from their home)

When a support package in the community is provided as a time limited (max. 6 months), intensive, rehabilitation service then no charge should be made.

The charge from 6 April 2009 will be £12.35 per hour.  
This includes services provided by all agencies including Social Services support workers.

## **DAY SERVICES**

If day services are provided as part of time limited (max. 6months), intensive, rehabilitation/ treatment plan then there will be no charge.  
To have an equitable charge for all client groups which will take into account the different components of: -

- Attendance – which will be charged even if the client, does not turn up
- Transport
- Meals

The charge from 6 April 2009 for all client groups will be £10.20 per day attendance charge.

## **TRANSPORT**

To encourage more independent travel arrangements.

This includes transport to and from any service, e.g.: - day centre  
respite  
outreach  
residential

Exceptions: -

Where a Care Manager is attending a meeting and takes a service user or carer with them.



For every occasion that WBDC makes a regular transport arrangement for a client where there is a cost to the Local Authority, then a flat charge will be made by the Council. This will currently be charged from 6 April 2009 at the rate of £1.15 per journey. As with all services the client will undergo a financial assessment and if their income falls below the minimum level as set out by the guidance there will be no charge.

## ***SUPPORTING PEOPLE***

Housing related support services under supporting People will be integrated with Community Care charging from 1/4/03.

The charge will need to be the actual cost of the service provided.

The local authority cannot charge people receiving “short term” Supporting People services. This means essentially services with an intended duration of less than two years (the full definition is available in the draft directions). Secondly the local authority cannot charge any service user who is in receipt of housing benefit.

The authority can charge for long-term services, the bulk of which is sheltered housing for older people, but will also include other long term services, such as long term support to people with disabilities, domestic type support for older people. There is transitional protection for existing clients, whereby they will not be charged more after 1/4/2003 than they were immediately before, unless they request a financial assessment or their service changes.

West Berkshire Council will charge for all Supporting People services for which we can charge. The charge will be the actual cost of the service. This is different to home care where a standard hourly rate is charged, regardless of the service provider and the actual cost.

## ***PERSONAL BUDGETS***

The charge will be the actual monetary value of the service provided to a client. A client’s maximum assessed charge will be applied to the monetary amount.

## ***RESPIRE CARE***

The charge will be the actual cost of the service provided to a client. A client’s maximum assessed charge will be applied to the actual cost of the service. Any respite that exceeds 56 consecutive nights (8 weeks) will be assessed under the Residential Charging Policy as per CRAG.

## **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 the Appeals and Waiver Policy and Procedure.

## **Review of Charges**

Charges will be reviewed on an annual basis as part of the Best Value Review and service planning.

Any service user who has capital/savings in excess of the maximum figure as set out in the Charges for Residential Accommodation Guidance [CRAG in LAC(99)9] 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 as per guidance in CRAG. The treatment of all capital/savings will be as per the guidance in CRAG.



# ***Fairer Contributions Guidance***

## ***Calculating an Individual's Contribution to their Personal Budget***

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DH INFORMATION READER BOX	
Policy HR / Workforce Management Planning / Clinical	Estates Commissioning IM & T <span style="border: 1px solid red; background-color: #e0ffff; padding: 2px;">Finance</span> Social Care / Partnership Working
<b>Document Purpose</b>	Best Practice Guidance
<b>Gateway Reference</b>	12240
<b>Title</b>	Fairer Contributions Guidance
<b>Author</b>	DH
<b>Publication Date</b>	14 Jul 2009
<b>Target Audience</b>	Directors of Adult SSs, Directors of Finance, users of social services
<b>Circulation List</b>	
<b>Description</b>	This document provides guidance for councils in England to use when determining what contribution, if any, a person receiving a personal budget should make towards it. It supplements the Fairer Charging Guidance issued in 2003.
<b>Cross Ref</b>	Fairer charging policies for home care and other non-residential social services: Guidance for Councils with Social Services Responsibilities (September 2003)
<b>Superseded Docs</b>	N/A
<b>Action Required</b>	Councils providing personal budgets should implement the guidance by March 2010
<b>Timing</b>	
<b>Contact Details</b>	SCPI Wellington House 133-155 Waterloo Road, London SE1 8UG
<b>For Recipient's Use</b>	

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# ***Fairer Contributions Guidance***

## ***Calculating an Individual's Contribution to their Personal Budget***

Prepared by The Department of Health

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<http://www.dh.gov.uk/publications>

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## **Fairer Contributions Guidance**

### **Calculating an Individual's Contribution to their Personal Budget**

#### **Introduction**

This guidance is issued under section 7 of the Local Authority Social Services Act 1970.

Councils offering personal budgets are expected to implement this guidance at the latest by March 2010.

The introduction of personal budgets is an integral part of the transformation of adult social care systems.

A personal budget is an upfront allocation of social care resources to a person who is eligible for support. Following an assessment of their need for non-residential social services ("needs assessment"), a person who the council consider eligible for support will be allocated an amount of money necessary to meet their needs.

Following the needs assessment and calculation of how much the personal budget might be (the indicative amount), the council will undertake an assessment of the person's financial circumstances in accordance with the guidance on Fairer Charging Policies for Home Care and other non-residential Social Services (the Fairer Charging Guidance) issued in 2003. The council will also work out what the person's maximum contribution would be in accordance with the Fairer Contributions guidance. If the financial assessment shows that the person has enough income or savings to contribute to their personal budget, the council will tell them what the actual contribution might be, which will be the lower of the maximum contribution and the available income based on the financial assessment.

A care plan or support plan will then be prepared, setting out how the person wants their needs to be met using their personal budget. They may ask the council to arrange all the care and support they need to meet their needs or they may ask the council to let them have the whole amount of the personal budget paid to them as a direct payment. Alternatively, they might decide to have a mixture of the two with some services arranged by the council and some of the personal budget paid as a direct payment. Once the support plan has been completed the

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council will confirm the amount of any actual contribution that the budget holder may be required to make.

This guidance sets out how a person's contribution, if any, to their personal budget might be calculated.

Councils may wish to continue to require people who have savings above the Charging for Residential Accommodation Guidance (CRAG) higher threshold to pay the full cost of any services they receive. Councils are reminded that people who can fund their own care are still entitled to an assessment of their needs. These people who are eligible for social services and who as a result of the financial assessment will meet the full costs of their care, are still entitled to help in making appropriate care arrangements. People who do not meet the eligibility criteria should expect appropriate signposting to alternative sources of support. Where councils do not offer direct help following assessment, they should be prepared to provide individuals with useful information and advice about other sources of support, including universal and open-access services, where appropriate.

## 1. Background

1.1 The Fairer Charging guidance was designed for an era of traditional local authority social care provision where people received services arranged by a local authority. However, with increasing numbers of people receiving direct payments and the introduction of personal budgets to support greater choice and control comes the need to consider how an individual's contribution, if any, towards the cost of non-residential services might be worked out in the context of personal budgets. This Fairer Contributions guidance sits alongside the Fairer Charging guidance which, along with its underlying ethos and principles, is still valid, and the Charging for Residential Accommodation Guidance (CRAG) to which the Fairer Charging guidance refers. In the case of any uncertainty as to the matters covered by the Fairer Charging guidance councils should refer back to these original documents.

1.2 To date, a service user's charge for non-residential services has typically been based on the number of units of different types of services they have received. In the case of direct payments, financial contributions towards the cost of services have been calculated on a comparable basis. In the same way, people will have the option to take a personal budget as



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commissioned services or as statutory direct payments or a mixture of both. With those personal budgets that are taken as direct payments rather than commissioned services, the individual may purchase different types of non-residential social services such as community care services as defined in section 46(3) of the NHS and Community Care Act 1990, including those listed in section 2 of the Chronically Sick and Disabled Persons Act 1970, from week to week, and these services may not correspond with the typical service classifications used by councils. We anticipate that individuals will increasingly choose varied forms of care or support which are designed to meet their specific agreed outcomes, as defined in their support plan.

1.3 Currently, the cost of service for charging purposes is calculated depending on the composition of an individual's care package and according to the policy of the local council regarding charges for homecare, daycare, meals, transport and other services. This cost of service is then compared with the individual's available income, determined by a financial assessment in accordance with the Fairer Charging guidance, and the individual is charged no more than the lower of these two amounts.

1.4 This document provides guidance on how both the chargeable amount of a personal budget, and the actual contribution made by the personal budget holder, might be calculated. The chargeable amount is the maximum possible contribution a person can be asked to make to their personal budget, subject to their available income and savings. The calculation of the actual amount to be paid begins with a means test which determines the income and savings available to make a contribution. This part of the process is covered in the original Fairer Charging guidance and remains unchanged. Thus this guidance does not introduce any changes to the way councils undertake financial assessments, or how they treat the income or savings of personal budget holders.

1.5 The person's actual contribution is the lower of the maximum possible contribution and the individual's available income.

## **2. Calculation of chargeable amount**

2.1 The way a chargeable amount is calculated will depend on each council's charging policy.

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2.2 Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA) allows Councils to make a reasonable charge for non-residential services they provide. So there are two aspects to discretion:

- whether or not to charge for a service
- where a service is charged for, what is a reasonable charge

Where a direct payment is to be made, regulation 5(2) of the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003 provides for the responsible authority to determine, having regard to the prescribed person's means, the amount (if any) it is reasonably practicable for them to pay towards securing the provision of the relevant service. According to the guidance on direct payments the relevant guidance is the Fairer Charging guidance. In accordance with the Fairer Charging guidance, councils should treat people receiving direct payments as they would have treated them under the council's charging policy, if those people were receiving the equivalent services.

### **Where councils provide no free or subsidised services**

2.3 The method outlined in the following section applies where councils do not provide any free or subsidised social services, or where they have decided to no longer provide such free or subsidised services. It is applicable whether a person uses his or her personal budget on council commissioned services or receives it as a direct payment, or a mixture of both. (See Example 1 in Appendix 2).

2.4 Councils should calculate a percentage up to 100% to be applied to all personal budgets, across all client groups except where specifically excluded from charging in accordance with the Fairer Charging Guidance to determine the proportion of a person's personal budget that will be subject to a service user contribution. Applying this percentage to a person's personal budget will produce the council's maximum possible charge to that person for its service(s) or the person's maximum possible contribution towards their direct payment, depending on how the personal budget is deployed. This figure will then be compared against the person's available means as calculated in accordance with the Fairer Charging Guidance and the person's actual contribution will be no more than the lower of the two figures.

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2.5 Where a personal budget is taken as a direct payment, this final figure will be the person's contribution or reimbursement towards the direct payment and where a personal budget is taken as a traditional service the final figure will be the amount the council recovers for the service. Where a council was previously providing free or subsidised services but has decided to no longer do so, particular care will be needed in calculating the percentage to be applied to personal budgets to ensure that individuals are not expected to make unreasonable contributions or contributions which are not reasonably practicable for them to pay. The Fairer Charging Guidance gives further guidance on setting the level of charges. Paragraph 3 of the Introduction states that councils need to ensure that their charging policies are demonstrably fair as between different service users.

2.6 As set out in the Fairer Charging guidance, ability to pay should not be assessed and charges should not be levied for any one service in isolation. The impact of charges for one of these services on the user's income should be taken into account in assessing whether charges should be levied for another service. The same charge assessment should normally be applied in assessing charges for these services. Councils should take account of no more than the full cost of providing the service, excluding costs associated with the purchasing function and the costs of operating the charging system. It is a matter for councils to decide whether to levy a contribution to costs or to seek to recover full costs, where possible.

2.7 Councils will need to consider inter alia whether to use the levels of charge to target subsidy at priority users or services and whether charging full costs for some users will create perverse financial incentives for them to enter residential care. Charges which reflect the costs of services provided to users and are based on hours of service provided are generally preferable to charges based on broad 'usage' bands, which can create perverse incentives and spread subsidy unfairly. Councils will need to consider how to set the level of charges in relation to the costs of the services provided to users.

2.8 Councils should be able to show that the charge or contribution is first and foremost reasonable in accordance with section 17 of HASSASSA or with the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003, as the case may be.

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2.9 The resulting contribution should also be no more than is reasonably practicable for the person to pay towards the service.

### **Where councils provide free and/or subsidised services**

2.10 Councils have the discretion not to charge for services at all or to charge for services selectively if they so wish. The Fairer Charging guidance gives guidance about exempting from charges specific customer groups and councils should act in accordance with this.

2.11 The method outlined in the following section applies where councils provide free or subsidised social services and decide to continue to do so. It is applicable whether or not the person receives a direct payment as part of their personal budget. Examples 2 and 3 in Appendix 2 illustrate the method.

2.12 Where councils wish to continue providing free or subsidised services and a portion of the personal budget is going to be deployed on such services from the council or on their equivalent services via direct payments it would be fair to exclude their value from any portion of the personal budget to which a percentage is applied. In certain cases it will be mandatory to exclude services from charging, for example community equipment and minor adaptations (see para 7.1 below).

2.13 At first sight it might appear complicated to exclude the value of free or subsidised services before applying the percentage to the balance of the personal budget. However, if a blanket percentage charge were to be applied to a personal budget by a council that provided free or subsidised services, and the personal budget holder decided that they wanted to receive a direct payment rather than council services, the outcome is likely to be that that person would be required to contribute more than a personal budget holder who decided to use the services provided by the council.

2.14 In determining the chargeable amount, councils should separately calculate:

1) any chargeable amount for that part of the personal budget which is to be spent on services which, or the equivalent of which, are not subsidised when provided by the council, ensuring that non-personal budget holders are not treated less favourably than the budget holder and

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2) any chargeable amount for that part of the personal budget which is to be spent on services which, or the equivalent of which, are subsidised services when provided by the council (based on the council's charging policy).

2.15 These two figures added together will give the maximum possible contribution to the personal budget that the person might be asked to make, subject to any lower locally set maximum contribution and the person's available income. The following paragraphs explain how this works.

2.16 Councils should apply the percentage calculated as in paragraph 2.4 across all non-exempted client groups, to any portion of a personal budget that is to be spent on services which when provided by the council are not subsidised. This gives the maximum possible charge that the person might be required to pay towards that portion of the personal budget that is to be spent on non-subsidised services or their equivalent via direct payments.

2.17 The maximum charge for that portion of the personal budget to be spent on services which are subsidised by the council or their equivalent via direct payments is determined in accordance with the council's policy for charging for these services. Councils should be able to show that both charges are reasonable in accordance with section 17 of HASSASSA.

2.18 The total maximum charge will be the total of the two amounts arrived at in paragraphs 2.14 and 2.15. This should be compared with the available income of the individual (calculated in accordance with the Fairer Charging guidance) and any locally set lower maximum charge. The person's actual contribution will be the lower of these amounts. Councils should be able to show that the resulting contribution is no more than is reasonably practicable for the person to contribute to the personal budget.

### **3. Effect of contributions on individuals' income**

3.1 Regard should be paid to the effect of contributions on a user's net income which should not be reduced below the levels set out in the Fairer Charging guidance. As stated above no-one should be expected to contribute any more than the financial assessment shows is reasonably practicable for them to pay. Councils should ensure that their policy on Disability Related Expenditure (DRE) is consistent with the Fairer Charging Guidance and transparent to

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service users. Councils might find it helpful to formulate their DRE policies in partnership with local user groups.

3.2 Councils are reminded that section 17(3) of HASSASSA gives a user the right to ask the council for a review of the charge which has been assessed, if the user considers that their means are insufficient for it to be reasonably practicable for them to pay the charge.

3.3 Whatever decision is taken about the level at which future charging is to be set, councils should assess the potential implications on service users and their carers to ensure that, where appropriate, transitional measures can be put in place to mitigate the impact of any extreme changes for service users and carers.

## **4. Collection of Contribution**

4.1 A personal budget or portion of a personal budget may be taken as a direct payment.

Paragraphs 88 to 90 of the Community Care, Services for Carers and Children's Services (Direct Payments) Guidance England 2003 provide guidance on charging for direct payments and refer to the Fairer Charging guidance.

4.2 The legislation on direct payments provides that with certain exceptions direct payments must be made gross unless the council decides that they will be paid net. Councils may find that paying personal budgets net of contribution provides for greater efficiency. Paying a personal budget or a portion of a personal budget net of a person's contribution means that the recipient receives the balance of that personal budget allocation and is expected to contribute the remainder. Where a council decides to pay a personal budget net of the person's contribution it should ensure that the person is clearly informed of the amount of the contribution, and how both the personal budget and the contribution have been calculated, in an accessible format. The guidance on direct payments provides further information on this.

4.3 There are some circumstances where it will not be appropriate or possible to pay a net allocation to an individual. For example, where a service user has a personal budget a portion of which is to be deployed on commissioned services, it is possible that the cash portion of their personal budget will be less than their overall assessed contribution. In these cases a contribution will still need to be collected from the individual. Councils will therefore need to

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retain a mechanism for collecting contributions from service users. Where a service user challenges the amount of contribution they have been asked to pay a council may wish to consider making payments gross until the matter has been resolved.

### **5. Consultation**

5.1 Councils should consult as necessary on any proposed changes to their existing charging policy in accordance with the Fairer Charging guidance. Councils might wish to allocate a member of staff to be responsible for consultation to meet local user and carer groups and to seek their views.

5.2 Councils will need to consider the impact upon their finances and those of their service users. Whilst it is possible to make implementation for councils cost-neutral overall, it may not be possible to isolate all service users from the impacts of the changes and consultation will be necessary on fundamental changes. This could also happen where Councils intend to introduce fundamental changes to the structure of charging and/or introduce policies which result in significant and substantial changes for service users. Again, consultation would be essential.

5.3 Councils should pay particular attention to DRE, Income Support/Guarantee Credit and the buffer of 25% (or more) when setting their percentage, and consider the effect this will have on individuals and their carers.

5.4 Councils have discretion as to how often they review the percentage applied to personal budgets. In accordance with paragraph 105 of the Fairer Charging Guidance, the percentage should not operate against the Government's policy agendas for social care, to promote independent living and social inclusion. It is important that consideration of charging policies is not purely budget based, but takes account of service needs. The design of charging policies needs to be sensitive to the variety of users' circumstances and needs. The ways in which charging policies are developed also need to be sensitive and to involve users and carers.

5.5 Councils are also reminded of the need to follow paragraph 107 of the Fairer Charging Guidance when considering how best to manage the service and user contributions, to ensure they are responsive to users' needs. Required performance information includes client

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numbers and service levels; clients refusing/cutting down on services as a result of charging, or asking for charges to be reviewed; levels and reasons for arrears; levels of client incomes, in particular the take-up of different benefits; and cost of collection as a percentage of income.

## 6. Equality duties

6.1 Councils should meet their duties under equality legislation including the need to carry out an Equality Impact Assessment on their policies and to involve disabled people, as required by the Disability Equality Duty introduced by the Disability Discrimination Act 2005, in creating an accessible contributions assessment process.

6.2 They should also ensure compliance with statutory obligations to monitor the effects of their policies on equality, for example by monitoring service user contributions and user/carer experience.

## 7. Further considerations

7.1 Community equipment and minor adaptations continue to be exempt from charging, in accordance with the Community Care (Delayed Discharges etc) Act (Qualifying Services) (England) Regulations 2003 and LAC (2003)14. After-care services provided under section 117 of the Mental Health Act 1983 also continue to be non-chargeable. Care must therefore be taken to exclude from charging any portion of a personal budget that is to be spent on these items or services. Similarly, a personal budget holder should not be expected to make a financial contribution towards advice about the availability of services or for assessment, including assessment of community care needs. Ongoing support such as payroll services could be subject to a contribution.

7.2 Councils are reminded that under direct payments legislation direct payments cannot be made for purchasing more than four continuous weeks of residential care per year. Where a personal budget is used to purchase residential respite care (within the limits set out in the direct payments legislation), councils are reminded that, as stated in the National Assistance Act 1948 and in the Charging for Residential Accommodation Guide (CRAG), for the first eight weeks of residential care an assessment of ability to pay is not required. Councils remain free to decide whether or not to undertake CRAG assessments. Where no CRAG assessment is



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undertaken, the charge made is the amount it appears reasonable to the council for the resident to pay (which may be determined by the local Fairer Charging policy). It is therefore possible to charge for this type of care in line with the local policy applied to non-residential community care services.

7.3 During the move to personal budgets, measures may need to be taken by the council to ensure that they treat those who receive personal budgets as direct payments as they would have treated them under the council's charging policy, if those people were to continue to be in receipt of traditional care packages and the same principle of fairness applies to those who hold personal budgets and those who do not. Any new policy should not produce a disincentive to service users accessing personal budgets as direct payments or traditional packages by having a more favourable regime for one or other.

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Appendix 1 Updated references to legislative provisions – July 2009

**Changes to references to Health Act partnerships**

The arrangements previously referred to as “section 31 Health Act flexibilities” are now made under the National Health Service Act 2006 (“the NHS Act 2006”).

Section 31 of the Health Act 1999 has been repealed and the arrangements it covered are now made under section 75 of the NHS Act 2006.

Section 28A of the National Health Service Act 1977 (“the 1977 Act”) has also been repealed and the power of PCTs to make payments to local authorities is now covered by section 256 of the NHS Act 2006.

Section 28BB of the 1977 Act has been repealed and the power of local authorities to make payments to NHS bodies is covered by section 76 of the NHS Act 2006. See further

Department of Health guidance at

[http://www.dh.gov.uk/en/Healthcare/IntegratedCare/Healthact1999partnershiparrangements/DH\\_363](http://www.dh.gov.uk/en/Healthcare/IntegratedCare/Healthact1999partnershiparrangements/DH_363)

**Section 17 of the Health and Social Services and Social Security Adjudications Act 1983** has been amended and now reads as follows:

17 Charges for local authority services in England and Wales

(1) Subject to subsection (3) below, an authority providing a service to which this section applies may recover such charge (if any) for it as they consider reasonable.

(2) This section applies to services provided under the following enactments—

(a) section 29 of the National Assistance Act 1948 (welfare arrangements for blind, deaf, dumb and crippled persons etc);

(b) section 45(1) of the Health Services and Public Health Act 1968 (welfare of old people);

(c) Schedule 20 to the National Health Service Act 2006 or Schedule 15 to the National Health Service (Wales) Act 2006 (care of mothers and young children, prevention of illness and care and after-care and home help and laundry facilities);

(d) section 8 of the Residential Homes Act 1980 (meals and recreation for old people); and

(e) paragraph 1 of Part II of Schedule 9 to this Act other than the provision of services for which payment may be required under section 22 or 26 of the National Assistance Act 1948;

(f) section 2 of the Carers and Disabled Children Act 2000.

(3) If a person—

(a) avails himself of a service to which this section applies, and

(b) satisfies the authority providing the service that his means are insufficient for it to be reasonably practicable for him to pay for the service the amount which he would

otherwise be obliged to pay for it, the authority shall not require him to pay more for it than it appears to them that it is reasonably practicable for him to pay.

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(4) Any charge under this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

(5) This section has effect subject to any regulations under section 15 of the Community Care (Delayed Discharges etc) Act 2003 (power to require certain community care services and services for carers to be free of charge).

## Changes to DWP benefits mentioned in Fairer Charging Guidance

The references to War Disability Pension and War Widows Pension in paragraph 24 should be amended to read 'War Disability Pension or Armed Forces Compensation Scheme: Guaranteed Income Payment' and 'War Widows Pension or Armed Forces Compensation Scheme: Survivors Guaranteed Income Payment' accordingly. Armed Forces Compensation Scheme benefits only cover incidents that occurred after 6 April 2005; War Disability Pension and War Widows Pension continue to be received by existing claimants.

The reference to Invalid Care Allowance (ICA) in paragraph 85 should be changed to read 'Carers Allowance (CA)'. Please note that references to this superseded benefit also appears in the footnote to Annex B section C and in Annex B section E of the 2003 Fairer Charging guidance. Invalid Care Allowance has now been completely replaced with Carers Allowance.

From October 27 2008, Employment Support Allowance (ESA) replaced Incapacity Benefit and Income Support paid on the grounds of incapacity for new claimants. Existing claimants before that date continue to receive Incapacity Benefit and Income Support where appropriate. The net levels of income below which service users should not be reduced still apply, however it should be noted that the premiums for ESA differ slightly from those for Income Support. The disability premium does not apply to ESA and instead there is a Support Component and a Work Related Activity Component.

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Appendix 2

Examples of calculation of contributions

**Example 1**

80 year old man who lives alone. He owns his own house (no mortgage) and gets full Council Tax Benefit. He has £5,000 in savings.

His personal budget is calculated at £100.00 per week and he has decided to let his council commission all services for him.

His council, Council A, does not provide any free or subsidised services and uses 100% of the allocated personal budget when calculating the chargeable amount; their charging policy only takes 85% of available income into account.

**Charging calculation**

State Retirement Pension	95.25
Guarantee Credit <sup>1</sup>	87.60
Attendance Allowance	47.10
<b>Total income</b>	<b>229.95</b>
Deduct Income Support /	
Guarantee Credit Threshold <sup>2</sup>	162.50
Deduct Disability Related Expenditure	20.00
<b>Income available for charging</b>	<b>47.45</b> (229.95 less 182.50)
85% of this <sup>3</sup>	<b>40.33</b>

The £40.33 figure is compared with 100% of the amount of his personal Budget (£100.00) and the client contribution will be the lower figure i.e. £40.33.

**Example 2**

75 year old lady who lives alone. She has housing costs of £25.00 per week. She is also liable for Council Tax of £20.00 per week but gets £5.60 of this in Council Tax Benefit. She has savings of £16,000. She doesn't qualify for Guarantee or Savings Credit.

Her personal budget is calculated at £120.00 per week: £30.00 of this is used by her council (Council B) to commission daycare, which is provided as a free service by Council B so is not part of the chargeable amount; (Alternately this £30 is available to her as a direct payment free of contribution if she wants to purchase the daycare herself) It is Council B's policy to apply 90% to the remainder (£90.00) to determine the chargeable amount (= £81.00).

<sup>1</sup> Including an additional amount for severe disability (£52.85)

<sup>2</sup> Standard minimum guarantee of pension credit + 25%

<sup>3</sup> In line with that particular council's charging policy.

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**Charging calculation**

State Retirement Pension	95.25
Attendance Allowance	47.10
Occupational Pension	160.00
Tariff income <sup>4</sup>	8.00
<b>Total income</b>	<b>310.35</b>
Deduct Income Support / Guarantee Credit Threshold	162.50
Deduct Disability Related Expenditure	15.00
Deduct mortgage interest	25.00
Deduct Council Tax	14.40
<b>Income available for charging</b>	<b>93.45</b> (310.35 less 216.90)

The £93.45 figure is compared with the chargeable amount of her Personal Budget (£81.00) and the client contribution will be the lower figure i.e. £81.00.

**Example 3**

A 38 year old man was involved in a road traffic accident 18 months ago. He lives on his own in housing association accommodation and has housing costs paid and receives full Council Tax Benefit. He has £3,400 in savings.

His personal budget is calculated at £280 per week. He deploys his PB on two services. Service (A) is full cost if LA provides it and service (B) is subsidised if LA provides it. The value of the subsidised service is £50 but the subsidy means he only pays £40. The calculation is as follows:

Take out the value of the service B £50 from the PB - £280 - £50 = £230  
Do a separate calculation of the contribution to the £50 i.e. £50 less £10 subsidy = £40.

Apply 100% (the percentage used by this council) to the remainder as it is to be spent on a service which is charged for at full cost when provided by the council  
=£230

So total max contribution is £230 + £40 = £270.

**Charging calculation**

Incapacity Benefit (incl. age addition)	96.35
Income Support	48.30
Middle Rate DLA Care	47.10
<b>Total income</b>	<b>191.75</b>

<sup>4</sup> Based upon £1 per £250 above the lower capital limit (£14,000)

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Deduct Income Support / Guarantee Credit Threshold <sup>5</sup>	114.75
Deduct Disability Related Expenditure	30.00
<b>Income available for charging</b>	<b>47.00</b> (191.75 less 144.75)

The £47.00 figure is compared with the maximum chargeable amount of his Personal Budget (£270.00) and the client contribution will be the lower figure i.e. £47.00.

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<sup>5</sup> Income Support, including disability premium + 25%



## **Charging Policy for Residential Care Services**

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Last Updated:	March 2010
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Ownership:	Jo England

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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 a Fairer Charging assessment 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 Benefit)
- 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.