

# Policy statement for supporting Adults with a Learning Disability.

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**DRAFT POLICY – NOT YET APPROVED BY EXECUTIVE**

# Contents

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1. Purpose .....	3
2. Scope .....	3
3. Policy Context – National and Legal Framework .....	3
4. Provision of Adult Learning Disability Services in West Berkshire .....	5
5. Assuring the provision of Quality services .....	7
6. Implementation .....	7
7. Roles and Responsibilities .....	7
8. Review .....	8

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## 1. Purpose

- 1.1 The purpose of this policy is to set the framework within which supported living, care home placements and local social care service provision will be commissioned for people with a learning disability to ensure that individuals receive quality services which meet those needs identified as critical during their assessment of need.
- 1.2 This Policy replaces the 'Local Services for Local People' Policy 2007, aligning our approach within the national framework, local developments and challenges.
- 1.3 The development of this policy aims to better define the Council's approach for supporting people with a Learning Disability and the services available to enable us to better explain the options available to service users, their families or carers.

## 2. Scope

- 2.1 This Policy relates to those individuals who have been assessed as:
  - i. Eligible for receiving adult social care services under West Berkshire Council's Fair Access to Care Services Policy, **and**
  - ii. Having a learning disability

- 2.2 Where an individual is assessed as ineligible for Adult Social Care services then the Council will signpost them to services and organisations that may be able to offer support independent of the Council.

This policy also applies to individuals in transition from Children's services.. There is a specialised transition worker who will work in accordance with this policy to support young adults with a learning disability reaching 18. Support will be on a case by case basis. This new policy will provide clarification of our approach to providing services to adults with a learning disability.

- 2.3 Where a Residential Educational placement has been made by WBC Education services to meet identified educational need in accordance with s139 Learning and Skills Act 2000 and the 1996 Education Act., Education will fund the learning and residential element and, where required, following an assessment of need Adult Social Care fund eligible unmet social care needs. Once any education placement has concluded then the individual will be subject to policies within Adult Social Care.

Changes in legislation mean that Education Services could remain responsible for young people up to the age of 25.

- 2.4 This policy does not apply to support for young adults who have an identified need that is not as a result of a learning disability.

## 3. Policy Context – National and Legal Framework

- 3.1 All local authorities with social services responsibilities are legally required to assess the care needs of any person who appears to them be in need of community care services and decide, having regard to the results of that assessment, whether

services should be provided to that person.<sup>1</sup> At the assessment stage all of the individual's presenting needs must be recorded. Once the individual's presenting needs have been established, it is then necessary to consider which of those needs are not already being met and the impact of those needs continuing to go unmet on the individual's independence.

- 3.2 The "Fair Access to Care Services" guidance sets out a national eligibility framework that all councils are required to use to determine when an unmet need is an eligible need that must be met by the social services authority.
- 3.3 WBC Fair Access to Care Services policy currently defines that all those meeting the '**critical**' level of need i.e. who have one or more unmet needs which have a "critical impact on their independence are eligible and entitled to receive services."<sup>2</sup>
- 3.4 Once an authority has decided it is necessary to provide services to meet an individual's eligible unmet needs, it is under a duty to provide those services, irrespective of whether the local authority has sufficient resources to do so.<sup>3</sup>
- 3.5 However, where there is an objectively real and present choice of care packages which are capable of meeting an individual's eligible need, it is not unreasonable for the authority to consider the relative cost of each option.<sup>4</sup>
- 3.6 Local authorities may also take their resources into account when drawing up their eligibility criteria against which they assess individuals' needs and when deciding which services will be provided to meet those needs.<sup>5</sup>
- 3.7 The [Mental Capacity Act 2005 \(MCA 2005\)](#) along with the related Code of Practice provides a framework to empower and protect people who may lack capacity to make decisions for themselves. When working with someone who may lack capacity regard must be taken to ensure the principles and processes of the Mental Capacity Act are applied.

The MCA 2005 works from the premise that everyone should be assumed to have capacity and people should be supported and helped to make decisions wherever possible. It sets out a framework in which a person's capacity to make a particular decision can be assessed; being clear that an individual may lack capacity to make a decision about one thing, but have capacity to decide something else. It also empowers an individual's family and those people closely involved in their care thereby enabling everyone to have a recognised part in the decision making process.
- 3.8 Key national policy for people with learning disabilities is listed in **Appendix A**. The direction of national policy is to enable individuals to live as independently as possible and in housing rather than institutional care. Some people with learning disabilities will need regular support with aspects of their lives such as daily living skills, as well as accessing work or training opportunities and social activities.

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<sup>1</sup> s47 NHS & Community Care Act 1990

<sup>2</sup> WBC Fair Access to Care Services Policy (2005)

<sup>3</sup> R v Sefton exp. Help the Aged (1997) 1 CCLR 57, R v Kensington & Chelsea exp. Kujtim (1999) 1 CCLR. 340

<sup>4</sup> R v Lancashire exp. RADAR [1996] 4 All ER 421,

<sup>5</sup> R v Gloucestershire CC & the Sec of State for Health exp. Barry (1997) 1 CCLR 40

Supported Living is characterised by the separation of housing and support and emphasis is placed on supported living options rather than residential care being available even to people with the most severe disabilities. It should be noted that supported living does not necessarily mean less support or that individuals are required to live on their own, but simply a framework that allows flexible, individualised support to be provided to people wherever they may be living.

#### **4. Provision of Adult Learning Disability Services in West Berkshire**

- 4.1 West Berkshire Council Learning Disability services will continue to work and promote the values and vision set out within the Care and Support White papers, 'Valuing People Now' and Think Local Act Personal; future planning and development of services will be aligned to the outcomes detailed within these, providing increased rights and choice to the individual.
- 4.2 The following principles will underpin planning and service delivery for people with learning disabilities across West Berkshire:-
- 4.2.1 Services for people with a learning disability and their carers are to be based on a 'person-centred process' of individual assessment of need and the development of a support plan to meet those needs:
  - 4.2.2 A multidisciplinary approach will be taken in carrying out the assessment and developing the support plan.
  - 4.2.3 An individual's views regarding those involved in the assessment process are to be respected, and their own views and choices actively sought.
  - 4.2.4 The views of family carers will be sought in carrying out the assessment and developing the support plan.
  - 4.2.5 Full account should be taken of any psychological need the individual may have regarding residing at a particular place.<sup>6</sup>
  - 4.2.6 The support plan should clearly document the responsibility of different agencies and individuals in providing the care and support needed, as identified by the assessment.
- 4.3 Whenever possible, assessed eligible need will be met within family homes with appropriate support.
- 4.4 Where an individual's eligible needs cannot be met in their family environment, West Berkshire will then look at alternative accommodation with a focus on supported living. This will be community based, affordable and person centred with access to other resources appropriate to the individual's needs..
- 4.5 In West Berkshire options can include:
- Community based support – individuals living in the community, in their own accommodation with a floating support service

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<sup>6</sup> *R v Avon CC exp. M (1999) 2 CCLR 185*

- Purpose built accommodation - Group living or shared house with a team of support workers that support the individual with aspects of their daily living skills. Often individuals will have their own tenancies
- Shared Lives Scheme (Adult Placement Scheme) – An individual with identified needs for additional support lives with a carer within the carer's family home

4.6 Options will be dependent on vacancies available at that time. Where there is an objectively real and present choice of packages which are capable of meeting an individual's eligible need, it is not unreasonable for the authority to consider the relative cost of each option

4.7 We recognise that for a very few people Residential / Nursing Care is the most appropriate option to meet their assessed need. Registered residential care will continue to be commissioned when there is clear evidence that this type of provision is required in order to meet an individual's assessed need.

Where Residential / Nursing Care is commissioned outside of West Berkshire we will continue to retain financial and care management responsibility, unless the placement is 100% health funded. Where placements are funded through Continuing Health Care, then the relevant Clinical Commissioning Group (CCG) has responsibility to review that placement.

4.8 If an individual lacks capacity to decide where to live the Mental Capacity Act 2005 sets out how they can be supported to make a decision or a decision can be taken in their best interests. This will include taking into account that individual's wishes and feelings and consulting with family members and others closely involved in their care. An advocate may also be instructed. If there is a disagreement about what is in an individual's best interests an application may be made to the Court of Protection.

4.9 Where suitable community based housing is identified consideration will have to be given to an individual's capacity to enter into a tenancy or other agreement. Applications to authorise an individual to sign a tenancy on behalf of someone who lacks capacity to do so themselves are also made to the Court of Protection.

4.10 Services will value the role of carers and relatives and their knowledge and experience of the person for whom they provide care or for whom they used to provide care. The strains of the caring role are to be recognised and carers are to be offered support, advice and information, especially at key times of change and development in the life of the individual.

All individuals identified as having caring responsibilities should be offered a Carers assessment<sup>7</sup> to ensure Carers issues are taken into account when planning services,

4.11 The process for any change in existing service provision for individuals will be through the formal review and reassessment of need. As part of this assessment we will take into account other needs, including health needs, and engage with other agencies as appropriate.

4.12 Formal reviews will take place, annually and additionally where there is an identified change in need or incidents involving the individual, and will actively monitor that

<sup>7</sup> Please refer to WBC Adult Social Care procedure to support Carers (currently draft)

assessed needs are being met. Any changes to current care packages will be evidence based and based on appropriate assessment and review of need (as outlined above).

## 5. **Assuring the provision of Quality services**

- 5.1 Nationally, the Care Quality Commission (independent regulator for Health & Social Care services in England) aims to ensure that care provided meets national standards of quality and safety, and will inspect service providers
- 5.2 West Berkshire Council is committed to ensuring that people are safeguarded from harm and works within the framework set out in the Berkshire Safeguarding Adult procedures.
- 5.3 Locally, West Berkshire has a Care Quality Framework that we work within to evaluate and monitor the quality of care service provision. We have a commitment to ensure that the providers we purchase from provide services to an acceptable level of quality.
- 5.4 Our Quality Assessment Framework includes core standards that we expect providers to work to, and be monitored against.
- 5.5 Any concerns about service quality would be addressed through our Care Quality Framework.

## 6. **Implementation**

- 6.1 This Policy will be supported and implemented by the development and publication of **WBC – A guide to Supported Living**. This publication will provide information and guidance in an accessible format on the options and support available in West Berkshire for adults with a learning disability.
- 6.2 Changes to welfare benefits nationally have started to be implemented and are expected to continue through to 2017. There are likely to be impacts on vulnerable people locally, both in terms of reductions in their income levels, and on the availability of affordable privately rented housing, to which the Council will need to respond. The impact of these changes will be monitored and managed by the relevant WBC Management teams. Through its Market Development work, the Council will seek to create affordable supported living options.

## 7. **Roles and Responsibilities**

- 7.1 The overall responsibility for the Supported Living Policy within WBC rests with Head of Care Commissioning, Housing and Safeguarding.
- 7.2 The responsibility for day-to-day management of this policy throughout West Berkshire Council rests with the Head of Care, Commissioning, Housing and Safeguarding; they are also responsible for maintaining this Policy, for reviewing all other security policies and procedures and for providing advice and guidance on their implementation.

- 7.3 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.

8. **Review**

- 8.1 This policy will be reviewed to respond to any changes and at least every three years.
- 8.2 The Care Commissioning, Housing and Safeguarding Service is responsible for reviewing and maintaining this Policy.

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## Appendix A – Key national policy for people with a Learning Disability

1. The [‘Care and Support’ White paper](#) published in July 2012, draws on the recommendations put forward by the Law Commission and Dilnot and sets out the vision for a reformed care and support system. To support the enactment of this vision, the draft Care and Support Bill has been published for pre legislative scrutiny. The 2012 Care and Support White Paper sets out the Government’s vision and proposals for care and support. The new system aims to
  - focus on people’s wellbeing and support them to stay independent for as long as possible
  - introduce greater national consistency in access to care and support
  - provide better information to help people make choices about their care
  - give people more control over their care
  - improve support for carers
  - improve the quality of care and support
  - improve integration of different services
2. The Partnership Agreement [‘Think Local Act Personal’ \(November 2010\)](#) developed together with partners in adult social care, builds upon the original Putting People First concordat. It supports personalisation, but with greater emphasis on a community based approach, devolving power to communities and allowing people, including the most vulnerable, to lead more independent and fulfilling lives
3. [‘Valuing People Now’ 2009](#) makes clear that people with a learning disability are people first with the right to lead their lives like any others, with the same opportunities and responsibilities, and to be treated with the same dignity and respect. People with a Learning Disability should be supported to live as independently as possible and have choice and control over their life, including where and who they live with.
4. In 2011, [the Government’s response to Raising our Sights: services for adults with profound intellectual and multiple disabilities](#) – A report by Professor Jim Mansell, acknowledged the concerns raised that needs were not sufficiently being addressed for adults with profound intellectual and multiple disabilities. The response supported the conclusion put forward in the report which identified a number of specific obstacles that national and local government need to attend to. It also highlighted the need to continue to ensure personalisation is extended to more people with profound and intellectual disabilities in a way which secures the benefits of improved quality of life and increased cost effectiveness.
5. There is a statutory duty since April 2000 to obtain best value as set out in the Local Government Act 1999.<sup>8</sup> The legislation sets out the basic best value framework.  
*“Best Value is a duty to deliver services to clear standards – covering both cost and quality - by the most effective, economic and efficient means available. In carrying out this duty local authorities will be accountable to local people and have a responsibility to central government in its role as representative of the broader national interest.”*
6. [Transforming care: A national response to Winterbourne View Hospital](#); sets out a programme of action to ensure that vulnerable people no longer live inappropriately in hospitals and are cared for in line with best practice, which can include consideration of Supported Living Options. It strengthens the need to ensure effective

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<sup>8</sup> [Local Government Act 1999](#)

accountability, strengthens the inspection and regulation of hospitals and care homes for this group of people and highlights the need for families to be centrally involved in discussions and decisions about care arrangements

7. The themes running through the national policy and legal framework emphasise the importance of providing quality services in response to individual need, which promote independence, choice and control, and also achieve effective use of resources. These themes have informed the development of this policy, in terms of the commissioning of services for people with a learning disability.

## 8. Welfare Reform

The Welfare Reform Act 2012 incorporates a range of measures designed to simplify, streamline and reform the payment of out of work, income, housing and disability related benefits; re-assess the fitness or otherwise of claimants to work; and provide employment related support.

There are four key elements to the welfare reform programme, which follow on from reforms that were introduced under the previous government:

- to replace the complex mix of out of work benefits and working tax credits with a single **Universal Credit**;
- to introduce a single welfare to work programme (the Work Programme), designed to support longer term unemployed people back to work;
- Disability Living Allowance is being abolished, an individuals will have to apply for **Personal Independence Payments**. Individuals of working age on Severe Disablement Allowance and Incapacity benefit are being transferred to Employment Support Allowance.
- to cap the total amount of benefit that working age people can receive, so that workless households should no longer receive more in benefits than the average earnings of working households. The cap will be £500 p/wk for couples and lone parents and £350 p/wk for single adults.

Changes to welfare benefits nationally have started to be implemented and are expected to continue through to 2017. There are likely to be impacts on vulnerable people locally, both in terms of reductions in their income levels, and on the availability of affordable privately rented housing, to which the Council will need to monitor and respond.