

# Residential and Nursing Care Placements for Older People Policy

## Document Control

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		The policy were agreed on 29 <sup>th</sup> November Executive. All the papers are on the Council's website:- <a href="http://decisionmaking.westberks.gov.uk/ieListDocuments.aspx?CId=117&amp;MId=1829&amp;Ver=4">http://decisionmaking.westberks.gov.uk/ieListDocuments.aspx?CId=117&amp;MId=1829&amp;Ver=4</a>	
<b>Chief Executive</b>	29 <sup>th</sup> November 2012	Nick Carter	
<b>Corporate Director (Communities)</b>	29 <sup>th</sup> Nov2012	Margaret Goldie	
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## Change History

Version	Date	Description	Change ID
1.1	Sept – October	Updated following consultation on the policy	
1.2	January 2016	Amended to take into account changes to eligibility criteria and statutory requirements as a result of the Care Act 2015. – Section 2 & 3. An additional reference to our duty to appoint an Independent Advocacy where required <b>Section 4.1 which describes the policy in West Berkshire to placing an adult in a Residential / Nursuing home has not been changed</b> 4.2 & 4.3 updated to remove reference to Local Authority Circular LAC2004)20 that no longer exists 4.5 & 4.6 Additional detail re Deferred Payment and Top ups have been provided	

***This Policy was approved via Council Executive 29<sup>th</sup> November 2012***



# Contents

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1. Purpose .....	3
2. Scope.....	3
3. Policy context - Legal Framework: .....	3
4. Provision of Residential / Nursing care placements by WBC.....	4
5. Assuring Quality of Care provided .....	5
6. Implementation .....	6
7. Roles and Responsibilities .....	6
8. Complaints.....	6
9. Review .....	6

## 1. Purpose

- 1.1 The purpose of this policy is to set out West Berkshire Council's policy for any new Residential and Nursing home placements for Older People (65 and over) where such a placement is required to meet a person's assessed care and support needs.
- 1.2 The development of this policy is driven by an increased demand for residential / nursing services and recognition that West Berkshire does not have enough affordable supply to meet demand. The ability to have services available from a wider geographical market means we will be better able to manage demand within existing resources.

## 2. Scope

- 2.1 This Policy relates to those Older People assessed as requiring a residential / nursing home placement to be provided by West Berkshire Council.
- 2.2 This Policy relates to externally purchased residential and nursing home placements only.
- 2.3 This policy should be read in conjunction with:
- Care Act 2014 and associated national guidance ([Care and Support Statutory Guidance – Department of Health 2014](#))
  - [West Berkshire Adult Social Care Charging Policy 2015](#)
  - [West Berkshire Council Deferred Payments Policy \(April 2015\)](#)

## 3. Policy context - 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 to be in need of care and support 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 adult's presenting needs must be recorded. Once the individual's presenting needs have been established, it is then necessary to consider which needs are 'eligible unmet needs' as defined by the national eligibility criteria set out by the Care Act 2014 and associated guidance and therefore are needs which the Council is obliged to meet.
- 3.2 Local Authorities are under specific duties to consider the promotion of the adult's wellbeing and consider ways in which to prevent, reduce or delay needs when undertaking an assessment. (reference s.1, s.2 of the Care Act and chapters 1,2 of the Statutory guidance)
- 3.3 Where an individual will have substantial difficulty in engaging with WBC Adult Social Care and there is no-one else to assist, Local Authorities have a duty to appoint an Independent Advocate to support the adult.<sup>2</sup>

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<sup>1</sup> s9Care Act 2014

<sup>2</sup> The Care and Support (Independent Advocacy) Regulations 2014

- 3.4 Once an authority has decided it is necessary to provide services to meet an adult'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, in determining how to meet needs the Local Authority may also take reasonable consideration of its own finances and budgetary position. Reference paragraph 10.27 of the Statutory Care and Support guidance.
- 3.6 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 some decisions for themselves. When we are working with someone who may lack capacity due regard must be taken to ensure that the principles and processes of the MCA are applied.

#### 4. **Provision of Residential / Nursing care placements by WBC**

4.1 It is the Policy of the Council to ensure that:

- Where possible, the service user will be supported to remain in their own home when they wish to do so. All affordable community based options to meet identified need (e.g. support from family/friends) will be considered prior to a placement in a Residential / Nursing care setting.
- All placements which meet identified need will be considered. This may or may not be within West Berkshire Council's geographical area.
- Where there are two real and objective alternatives, the Council can take account of its resources where one placement would involve significantly more expenditure. However, we will work with people to identify solutions and pay due regard to choice and individual needs including family and social support systems, as part of the assessment.
- In some cases, where the preferred accommodation is not immediately available, an individual may be able to have in place an interim or bridging arrangement, which would need to be agreed by the Council and the individual.

4.2 West Berkshire Council sets 'usual rates' each year. These are guideline amounts at which the Council considers good quality care can be purchased when older people are unable to remain in their own homes.

4.3 In taking account of its finances and ensuring value for money, West Berkshire Council will consider on a case by case basis, the total costs of different potential options for meeting needs and include the cost as a relevant factor in deciding between suitable alternative options for meeting needs. This may mean that an individual's first choice of care provider is considered to be too expensive when a suitable alternative which also meets need can be offered at a more affordable level.

4.4 Staff undertaking Assessments will be able to advise of usual rates as a guide when seeking an appropriate care home. WBC also recognise that the needs of some individuals will be at such a level of complexity that care will be at a more expensive level; in these circumstances you will be advised of the level of funding that will apply in your case.

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

The Personal Budget (an amount we say will meet your assessed eligible need) will include the Council's contribution plus your own assessed contribution. When carrying out an Assessment of needs we treat every applicant's circumstances on an individual basis

- 4.5 Financial assessments for an individual's contribution will be completed in line with national [WBC Charging Policy](#) 2015, which is aligned to Care Act 2014 and associated statutory guidance.
- 4.6 Individuals or their relatives may wish to choose an alternative residential/nursing care placement to the one offered. If the chosen home costs more than (*the amount identified in the personal budget*) a payment will need to be made to pay the difference between the cost of the placement and the *personal budget*. This is called a top-up payment.
- 4.7 Top-up payments can only be paid from the savings of the individual requiring a residential/nursing home placement in very limited circumstances:
- They own a property AND
  - They have entered into a 12 –week property disregard, or
  - They have entered into a Deferred Payment Agreement whereby the Council places a legal charge on the property to cover the cost of the care home fee and the top-up payment.
- Refer to [West Berkshire Council Deferred Payment Agreement Policy](#)**  
OR
- The accommodation is to be provided under section 117 mental health aftercare.
- 4.8 Top-up payments can be made by family/friends or a charitable organisation subject to agreement by West Berkshire Council that the payment is affordable and sustainable for the likely duration of the arrangement.

## 5. **Assuring Quality of Care provided**

- 5.1 West Berkshire Council is committed to ensure that people are safeguarded from harm and work within the framework set out in the [Berkshire Safeguarding Adult procedures](#).
- 5.2 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 an acceptable level of quality.
- 5.3 Any concerns about service quality would be addressed through our Care Quality Framework.
- 5.4 Where individuals are placed outside the Local Authority Area there are reciprocal arrangements for host authorities to respond to any safeguarding concerns.
- 5.5 Whilst we respect that the host authority takes the lead to respond to any safeguarding concerns, West Berkshire Council will actively work to build our

own links and engage with providers outside the Local Authority Area and make any decisions regarding future commissioning through the Governance of 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 Paying for Residential Care**'. This publication will provide information and guidance on the options and support available when considering Residential / Nursing care.
- 6.2 This policy is for new residential and nursing placements only and does not apply to existing placements
- 6.3 This policy will apply to any new capital depleters for which the council becomes responsible for, following an appropriate assessment of needs which takes into account the individual's current placement.
- 6.4 If on review / reassessment of need, an individual's needs have changed such that they cannot be met through their current placement, the new policy would apply.

## 7. **Roles and Responsibilities**

- 7.1 The overall responsibility for the policy within West Berkshire Council rests with Head of Care Commissioning, Housing & 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 & Safeguarding; they are also responsible for maintaining this Policy and for providing advice and guidance on their implementation.
- 7.3 All managers within Adult Social Care and Care, Commissioning, Housing and Safeguarding are directly responsible for implementing this Policy, any sub policies and procedures within their service areas, and for the adherence of their staff and others.

## 8. **Complaints**

- 8.1 Any dissatisfaction or disquiet about the actions or decisions in relation to this policy will be subject to West Berkshire Council Complaints procedure.

## 9. **Review**

- 9.1 This policy will be reviewed to respond to any changes and at least every three years.
- 9.2 The Adult Social Care Commissioning, Housing and Safeguarding service are responsible for reviewing and maintaining this Policy.