

Isle of Wight Council Adult Social Care's

Management of Client Finances by the Deputyship Team

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1 Document Information

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Author:	Alia Noordin, Deputyship Team Manager Community Wellbeing and Social Care alia.noordin@iow.gov.uk (01983) 821000
Sponsor:	Matt Porter, Finance & RAS Manager Community Wellbeing and Social Care matthew.porter@iow.gov.uk (01983) 821000
Consultation:	Helen Miles, Legal Services
Approved by:	Martin Elliott
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Version	Date	Description
V0.1	July 2013	Initial draft
V0.2	December 2013	Second draft
V1.0	February 2014	Final and signed off version, approved by Legal
V1.1	February 2015	Reviewed and minor amendments included to ensure compliance to the Care Act including a section on Appointing Independent Advocates
V1.2	February 2015	Removal of section on Independent Advocates
V1.3	February 2015	Includes a Section 5 on Capacity
V1.4	March 2015	Amendments from Helen Miles

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3 Background

- 3.1 The Deputyship Department forms part of the Commissioning and Partnerships Directorate, Isle of Wight Council and gives assistance on dealing with the property and financial affairs of persons who are mentally incapable of doing so themselves.

The Deputyship Department gets involved when a person is suffering from a mental disorder and is unable to manage their own financial affairs. The Deputyship Officer, following a referral from a Social Worker, would apply to the Court of Protection for the appointment a Deputy for that individual. The Isle of Wight Council is only involved when all other options have been considered regarding relatives and next of kin making an application to be Deputy.

The main aim of the Deputyship Officer would be to act in the best interests of the client at all times and provide high quality individual management of their financial and legal affairs. Each case referred is different and so are the individual's needs and capacity. The vulnerability of the client and their needs are the foremost considerations when working in the Deputyship Department.

- 3.2 The Court of Protection is situated in London. This Office helps to look after the financial affairs of people who are not mentally capable of doing so themselves. The Office of the Public Guardian forms part of the Ministry of Justice and act as the administrative arm of the Court of Protection.

The Court of Protection and Office of the Public Guardian main aim is to promote and protect the financial and social well being of their clients. From a Deputyship point of view, the Court of Protection assists and guides Deputy's in their duties. The Order appointing the Deputy will clearly set out what powers you have that relate to dealing with financial and property related affairs of the Client. Authority should always be sought from the Office of the Public Guardian on major decisions that the Order does not cover. Office of the Public Guardian will issue directions on the request from a Deputy if appropriate.

- 3.3 When the Court of Protection appoints the Deputy, the Court sends an Order to confirm this. A number of sealed Court of Protection of the Order will be sent to prove to organisations of the authority given.

4 Eligibility

4.1 A Court of Protection application can only be made for someone who is deemed as lacking capacity to manage their finances. Once this has been ascertained, the following must also be true of each case:

- Each case must have an allocated Case Worker or Team who can work alongside the Deputyship Team to manage the case and make joint decision in that person's best interest.
- All family and relevant close friends must have been approached by the Case Worker and asked to take the role on themselves. If they are not suitable then the Case Worker must still inform the family of the referral before it is made.
- All referrals for clients are accepted regardless of their living or financial arrangements as long as the Isle of Wight Council are involved with that person.

5 Capacity

At the time of the assessment of care and support needs, the council will determine whether a person has the capacity to the part in the assessment. If the person does not have capacity, the council will establish if the person has any of the following as the appropriate person will then be involved:

- Enduring Power of Attorney (EPA)
- Lasting Power of Attorney (LPA) for Property and Affairs
- Lasting Power of Attorney (LPA) for Health and Welfare
- Property and Affairs Deputyship under Court of Protection or
- Any other person dealing with the person's affairs (for example someone who has been given appointee-ship by the Department of Works and Pensions (DWP) for the purpose of benefit payments)

If it is identified that a person lacks capacity and does not have any of the above people with authority to be involved with their affairs, the council will consider the appointment of a Deputyship. This could be a family member if they are willing, or the council can apply if there is no family member willing or involved in the care of the person.

A person who lacks capacity will not undergo a financial assessment until an appropriate person has been identified and this person has gained the appropriate authority to be involved in their affairs.

6 Procedure

- 6.1 A referral is received from a Isle of Wight Council Adult Social Case Worker or Mental Health Case Worker to the Deputyship Department. The Deputyship Team Manager receives these referrals and will make a decision based on the information received if an application can be made to the Court of Protection. Cases are taken on based on the client's individual financial circumstances.
- 6.2 Once the referral has been accepted and all financial information gathered, a Deputyship Officer from the Team will make an application to the Court of Protection to appoint a Deputy. This stage of the process takes a minimum of 6 months and can be up to 2 years.
- 6.3 When the Order has been sent by the Court of Protection and received by the Deputyship Team, processes and protocols are followed to close any investments and sell unoccupied properties. All monies are then lodged together in a bank account for each client. The Deputy needs to ensure all income is being received and all payments are made on time on behalf of that client. As and when required and deemed appropriate expense money is issued to the client.
- 5.4 The Court of Protection will request annual Deputy Account Report Forms for each client. It is the Deputy's responsibility to ensure these are completed and sent back on time with all information required.
- 5.5 In a small portion of cases a Court of Protection Order can be terminated or revoked. This would happen in cases where the client makes a recovery and is able to manage their own finances, if a relative decides they want to take the case on or if the client moves off the Island and falls under another Local Authority's funding.

7 Third Party Management of Money

- 7.1 In the majority of cases arrangements have to be put in place for the provision of cash monies to be made available for the client. If the client is in a care home then it is usual practice for either the care home to invoice the Deputy once purchases have been made or ask for money to keep in the safe for the client. Log books are checked as part of reviews carried out by the Case Worker, Deputyship Officer and Court Visitors. One or more are undertaken each year. For clients living in the Community it is most usual practice for them to require the money beforehand so they have it ready for any payments that need to be made.
- 7.2 Money can be given to various representatives for the benefit of the client. These can be Case Workers, Support Workers, Care Home Staff and Managers, Care Agency Workers, family and friends or the client themselves. This money transfer can be a transfer direct into a bank account, funds loaded onto a prepaid card or delivery of cash.
- 6.3 Where any monies are being handled by a third party, they are informed that they must keep record sheets or log books to record all transactions. It is also important that they keep all receipts for purchases made on behalf of the client. It is not expected for the clients to do this themselves if they are the ones spending the money. All the clients are reviewed annually and random checks and visits are made to verify receipts, log books etc.

8 Appointeeships

- 8.1 The Deputyship Team also undertakes the application and management of Appointeeships for clients who lack the mental capacity to manage their benefit income. The Appointeeship is granted by the Department for Work and Pensions following receipt of a BF56 Application Form.
- 8.2 An Appointeeship application would be made for any persons who has below £2k, no private pension or investments and is living in residential care. It is purely for the management of benefit income and making payments relating to a person's needs. This differs from the Court of Protection application as it does not grant authority to manage any other finances other than benefit income.
- 8.3 An Appointeeship is managed in the same way as a Court of Protection Order. The main difference being that the Order is governed by the Court of Protection and the Appointeeship by the Department for Work and Pensions. An Appointeeship is also granted in approximately 12 weeks which is much shorter than the six months it takes to obtain a Court of Protection Order. However, it has a very limited authority which is why it can only be applied for where there is little or no capital and just benefit income to manage.

9 Protocol for Third Party Management of Money

1. Each client will have a bank account operated on their behalf by the Deputy/Appointee in the Council's Deputyship Team. This account will be used only by the Deputyship Team to manage the client's finances.
2. Where a Client requires one-off payments of a known amount the Deputy/Appointee will issue the funds from this account.
3. Clients can be issued with one-off or regular payments to meet their day-to-day needs.
4. The Third Party will be personally liable for all cash held by them. They will be liable to disciplinary procedure and Police action if suspected of mismanagement of funds.
5. Cash transactions should be kept to a minimum and where it is unavoidable.
6. All cash, cheques etc. must be held in a secure location where the items are locked away and not in plain sight. This needs to be a safe or a fireproof location, such as a vault.
7. The Third Party will be responsible for maintaining an account of all monies handled on behalf of the Deputy/Appointee and client, by means of either a notebook or spreadsheet.
8. The client must sign for every item and cash payment they receive. In some instances, the client may not have complete capacity to understand what they are signing but as long as it is explained to them in the best way possible, it is still important for them to see that the money cannot just be handed over.
9. Receipts must be kept for every item purchased by the Third Party on behalf of the Client.
10. If the Third Party needs to delegate the handling of cash to a colleague or office staff s/he must issue written instructions on the amount and timing of any cash to be issued. The Delegate will comply with the above recording process.
11. An annual review of the Third Party's records may be undertaken by the Council's Deputyship Team. The Third Party must be prepared at any time to provide records of all transactions to their Team Manager / Supervisor and the Deputy / Appointee.

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Arabic

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Hindi

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Punjabi

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Urdu

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Chinese

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Bengali

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Polish

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French

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Italian

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German

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Hungarian

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Spanish

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Romanian

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