

Isle of Wight Council Adult Social Care

Securing properties of adults being cared for away from home Policy

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1 Document Information

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3. Purpose and Aim

This policy explains the Isle of Wight council's (IWC) position regarding the time period up to receiving a Court Order for safeguarding properties of adults being cared for away from home as identified in the [Care Act 2014](#).

The framework will be followed by all professionals responsible for carrying out the protection of property as a delegated duty on the council's behalf and ensures the council complies with legislation.

If someone is being cared for away from their home, for example they are in hospital or temporarily supported in a care home and they are unable to make arrangements themselves or arrange for someone else to protect and secure their property, contents or pets, the IWC will take reasonable steps identified in Section 5.3 to protect their property, contents and pets. The council's duty to protect the property ends when the person returns home, or when they are able to make their own arrangements for the protection of their property. The council will recover from the person all reasonable expenses incurred in protecting their property.

The IWC will, wherever possible, support adults to make their own arrangements to protect their property. If individuals have family members or friends who are involved, they will be asked if they are willing to look after the person's property whilst they are away from their home.

The council has a duty to take reasonable steps to prevent or mitigate the loss or damage and as such has this policy in place if a person has no other suitable arrangements to protect their property. It is not the council's responsibility, or that of their staff, to protect or insure the property, contents or pets until the person is made permanent in a residential or care setting or moves into supported living accommodation or hospital. This includes arranging for pets to be looked after, as well as personal items. If the person is in hospital it may be more appropriate for the NHS to perform this duty.

When applying this policy, social care workers and deputyship officers will operate within the decision-making arrangements of the [Mental Capacity Act 2005](#), where a person has been assessed as lacking capacity to take that decision themselves.

If access to the property is required, the social care worker will obtain consent from the person, or if they lack capacity to consent, anyone acting with legal authority. If neither option is available, then a decision will be made in their best interest using the Mental Capacity Act 2005.

IWC managers will give relevant social care workers written permission to gain access to a property. The member of staff will be able produce this evidence, if requested.

4. Legal Context

4.1 *Duty to Protect Property*

Section 47 of the Care Act 2014 places a duty on local authorities to take reasonable steps to prevent or mitigate the loss or damage to an adult's moveable property where:

- The adult is being cared for in hospital or is having their needs for care and support met in accommodation such as a care home and
- It appears to a local authority that there is a danger of loss or damage to moveable property (including pets) of the adult's in the authority's area because:
 - (i) The adult is unable (whether permanently or temporarily) to protect or deal with the property and
 - (ii) No suitable arrangements have been or are being made.

Where it is identified that the local authority has a duty to protect a person's property, section 47 of the Care Act 2014 gives statutory powers to local authorities (and those it delegates this function to), who may:

- At all reasonable times and on reasonable notice enter any premises which the adult was living in immediately before being provided with accommodation or admitted to hospital, and
- Deal with any of the adult's movable property in any way which is reasonably necessary for preventing or mitigating loss or damage.

The duty to protect property lasts until the adult in question returns home or makes their own arrangements for the protection of property or until there is no other danger of loss or damage to property; whichever happens first.

4.2 *Formal Identification and Authorisation*

Professionals dealing with the protection of a person's property, have the power at all reasonable times to enter the premises to protect that property but must if requested be able to produce formal and valid identification showing their authority to exercise this power.

4.3 *Obstruction of a Protection of Property*

If an obstruction occurs and this does not appear to be in the interests of the person whose property requires protecting, the Multi-Agency Safeguarding Procedures will be followed and the relevant IWC Commissioner informed. Legal advice will also be sought in order to ensure that the council upholds its duty to protect the person's property as required.

4.4 *Recovering Reasonable Expenses*

The council can recover any reasonable expenses it incurs when protecting property from the adult whose property they are protecting. The following list is not exhaustive but provides examples of costs that may be recovered:

- Gaining access to the property (if forced entry required)
- Securing the property — e.g., changing locks if required
- Storing any valuable items
- Arrangements to care for pets

5. **Protecting a Property**

Housing and Community Support Services will make every attempt to locate the owner of the property but have powers under Section 29 of the [Local Government \(Miscellaneous Provisions\) Act 1982](#) to ensure that where it appears any building is unoccupied or that the occupier of the building is temporarily absent from it and is:

- (a) not secured against unauthorised entry
- (b) is likely to become a danger to public health.

Housing may undertake work in connection with the building for the purpose of preventing unauthorised entry or preventing it becoming a danger to public health. There is no requirement to give any notice where Housing considers it necessary to undertake immediate work. They can also recover any subsequent costs.

5.1 *Deciding when a Protection of Property is required*

Whenever an individual is admitted to hospital or to accommodation such as a care home, the social care worker involved will enquire whether or not the person has made arrangements, or is able to make arrangements, for the protection of their property.

If the person has capacity to make their own decisions it is their own responsibility to arrange and provide necessary insurance cover for the property. If they have capacity but are unwilling or refuse to protect their own property, the social care worker will explain the associated risks. Under those circumstances the council does not accept any responsibility for the property.

If the adult lacks the capacity to give consent for the protection of their property then the social care worker will establish if there is an identified person who is authorised under the Mental Capacity Act (such as a lasting power of attorney or deputy) who can carry out the protection of property on the person's behalf.

If the adult in question lacks capacity and no other person has been authorised to act on their behalf, then a best interest decision will be made under section 4 of the Mental Capacity Act by the social care worker as to whether a protection of property should proceed.

5.2. Referring to the Deputyship Team

If no arrangements are in place to protect the person's property, the relevant social care worker will refer the case to the Deputyship Team.

5.3 Securing a property in urgent circumstances

There will be situations where urgent action will be required to protect the person's property; especially their valuables or pets. Reasonable notice will be given to the person or their attorney/deputy, and the length of the notice is likely to depend on the level of risk presented to the person's property and moveable objects.

As soon as the council takes 'responsibility' to protect the property, they will visit the property and take the following reasonable steps:

- Check all appliances are unplugged and left in a safe condition
- Check whether utilities need to be switched off
- Check there are no obvious water leaks or flooding
- Ensure the safety and welfare of any pets
- Secure all windows and doors
- Ensure there are no items of value/cash visible from outside windows
- Ensure post/papers/milk deliveries are picked up
- Check there are no signs of damage to the property or fences
- If the property is rented, the landlord will be informed as soon as possible

If relatives exist and are actively involved in the individual's life, the social care worker managing the case will notify them that the above steps have been taken to safeguard the property as soon as possible. Thereafter, if the relatives visit the property and decide to change the locks, the Isle of Wight council requests the family inform us of this action.

5.4 Inspection and Inventory

Where it has been identified there is a further need to protect the contents of the adult's property, an inspection will be made of the premises. Further protective actions may include:

- Disposal of perishable foods.
- Searching for documents, cash, jewellery and other valuables.
- Safeguarding valuables by secure storage
- Arranging, where necessary, the removal of property to secure storage (the person is liable for relevant expenses).
- Ensuring the ongoing security of the premises.
- Ensuring that the person's financial affairs are dealt with in accordance with the law and referrals are made to the appropriate agencies.
- Arranging where necessary, the decontamination of the premises and/or making the property safe and habitable.
- Cancellation of milk/papers etc.

If the property search reveals aspects of a life that was otherwise unknown, the employee will protect the person's privacy. The information will not be shared with anyone, unless it has implications for the safety of the person or other people, or if it is believed that a serious crime has been/is being committed (e.g. evidence of drug dealing).

6. Uninhabitable or Unsafe Conditions

There may be occasions when it is identified that the person is or has been living in unsanitary, infested/verminous or otherwise unsafe conditions. In these circumstances, the social care worker will gain consent from the person as to how to make the property safe and habitable. Depending on the nature of the problem, the social care worker will alert relevant individuals or organisations who may have a legal duty to make the property safe and habitable or to carry out enforcement action if required.

If it appears that the person's decision-making is impaired in relation to making their property safe and habitable, the provisions of the Mental Capacity Act will be followed and if the person lacks capacity, a best interest decision will be required as to whether the property should be cleaned, repaired or de-infested.

7. Long-Term Arrangements

The person's situation and the requirement for the continuing protection of their property will be reviewed on an ongoing basis. If it becomes apparent, following a social care assessment or review that the person is likely to require long-term residential or nursing care, or extra care, or will not be able to return home for some time, then the social care worker/deputyship team will take appropriate action.

8. Relinquishing a Tenancy

Housing benefit ceases to be paid as soon as somebody becomes a permanent resident in a residential or nursing care setting. This includes the standard four-week trial period. It can be paid for up to 52 weeks when a claimant is in hospital and it is intended that they will be returning home.