

Adult Social Care

Making a Difference in the Right Way, Every Day

Appointee and Deputyship Policy



Solihull
METROPOLITAN
BOROUGH COUNCIL

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1. INTRODUCTION

- 1.1 When a person lacks mental capacity to manage their financial and property affairs most people have someone such as their spouse or partner, a family member, a friend or a professional advisor who will officially manage their financial affairs.
- 1.2 When there is no suitable person to help manage their financial affairs and the person lives in Solihull and lacks mental capacity, Solihull Council will consider how best their financial affairs can be managed on their behalf.
- 1.3 A formal assessment should be carried out by a suitably qualified person following the principles of the Mental Capacity Act to establish if the person lacks mental capacity and enquiries should be made to identify if there is an existing Lasting Power of Attorney.
- 1.4 Solihull Council will also consider how best a person's financial affairs can be managed on their behalf if the person is at risk of being, financially abused and lacks mental capacity.
- 1.5 For those people who do not have mental capacity to manage their own financial affairs, Solihull Council will consider whether an Appointee or Deputyship may be appropriate.
- 1.6 If the criteria set out in this policy is met, a referral will be made to a commissioned provider or the Court of Protection's approved list of professionals that can help the person manage their financial and property affairs using the appropriate legal route for their circumstances.

2. PURPOSE

- 2.1 This policy outlines the criteria and referral processes that will be in place to ensure people are supported to have access to Appointee or Deputyship service where they lack mental capacity to manage their own financial and property affairs.
- 2.2 This policy only applies to people aged 18 or over who met the eligibility for receiving care and support from Solihull Adult Social Care.

3. LEGAL CONTEXT

- 3.1 The Office of the Public Guardian (OPG) Deputy set the standards for Public Authority Deputies. Providers commissioned by the Council will work in accordance with these requirements.
- 3.2 The Court of Protection rules allow certain costs to be charged in relation to the application for a deputy and subsequent management of financial affairs which are met from the persons estate.
- 3.3 The Department for Work and Pensions set the criteria and standards required for becoming an Appointee and managing the person's state entitled benefits only.
- 3.4 The Care Act 2014. The Council will be mindful of Care Act

duties to promote the person's wellbeing; involve persons as much as is possible in decisions which affect them; and to safeguard adults at risk of abuse or neglect.

- 3.5 The General Data Protection Regulations. The Council and Commissioned Providers operating under this policy will follow requirements for personal and sensitive information to be stored and shared securely with access restricted to those who 'need to know'. Persons or their representatives are entitled to access their own information.

4. APPOINTEESHIP

- 4.1 An appointee can act on behalf of the person who is entitled to benefits from the Department for Work & Pensions (DWP) to receive and manage their state benefits / state pension. The DWP will monitor the appointee to make sure the arrangement is suitable for the person.
- 4.2 The Council will consider a referral to a commissioned provider that is appointed by the Secretary of State for the Department for Work and Pensions (DWP) to act on behalf of a person who is unable to manage their benefits affairs and the appointment relates to their state benefits.
- 4.3 The Council will consider if an appointee is appropriate for people that have severe physical disabilities that impact on their ability to claim and manage their benefits.
- 4.4 The provider commissioned by the Council will:
- a) Claim benefits and sign DWP forms for the person
 - b) Collect and receive benefits, state pensions and allowances
 - c) Ensure the person receives the maximum amount of benefits they are entitled to
 - d) Make appropriate payments on behalf of the person from those benefits
 - e) Ensure the individual receives their personal allowance from their benefits
- 4.5 The Council's commissioned provider will not begin to manage a person's state benefits until the DWP Appointeeship has been confirmed.
- 4.6 The commissioned provider cannot receive or make payments from any other type of income, other than those listed above.
- 4.7 Once authority is obtained, the Council's Commissioned provider will Inform all relevant parties (for example financial institutions, care homes) of its authority to act on the person's behalf, and act within the limits of the DWP Appointeeship.

5. DEPUTYSHIP

- 5.1 A Deputy is appointed by the Court of Protection to make decisions on behalf of someone who has lost or lacks capacity to make decisions for themselves.
- 5.2 Deputies are appointed to deal with property and financial matters or with personal welfare issues on behalf someone who does not have mental capacity.
- 5.3 Where a person has other types of income, property, capital and assets, the Council will consider a referral to a commissioned provider to apply for deputyship to act in accordance with the requirements of the Office of the Public Guardian. Once appointed as a deputy, the provider will be required to manage the person's financial and property affairs, including savings in a bank account, collecting benefits, occupational pensions and other income as well as making appropriate payments on their behalf.
- 5.4 Alternatively, the Council may request the Court of Protection appoints a deputy from their approved list of professionals that can apply and act as a deputy for people who lack mental capacity.
- 5.5 The most appropriate option will depend on the circumstances of the person to ensure promotion of their well-being and independence.
- 5.6 Once the court grants authority to a commissioned provider to act as a deputy, the provider will inform all relevant parties (for example financial institutions, care homes) of its authority to act on the person's behalf, and act within the limits of the Deputyship order granted by the Court of Protection.

6. CEASATION OF AN APPOINTEE OR DEPUTYSHIP

- 6.1 Commissioned providers working on behalf of the Council will remain responsible for managing the person's property and financial affairs until
 - a) Another person is appointed to manage the person's property and financial affairs.
 - b) The person regains capacity.
 - c) The person dies, when responsibility for managing their financial affairs passes to the executor or administrator of their estate.
- 6.2 When a person dies, the Council's commissioned provider will:
 - a) Provide their executor / administrator with information about person's financial affairs, or
 - b) Should no family members be located by the Appointee and Deputyship team a referral to the Treasury Solicitor / Bona Vacantia will be made.
- 6.3 Where the person who is no longer able to manage their financial affairs is named as the executor and beneficiary in the Will of a deceased person or under the rules of intestacy is an entitled relative and there is no other person willing to administer that other estate, the Appointee and Deputyship team will:

- a) Seek the authority of the Court of Protection to apply for a grant of representation on the person's behalf, and
- b) If granted, instruct a solicitor to administer the deceased person's estate.

7. MONITORING

- 7.1 The Council will monitor the services provided by commissioned providers delivering appointee and deputyship services to ensure the legislative requirements and standards are met as set out in the policy. This will include the monitoring the implementation of recommendations following external inspections.

