

Report to Cabinet



Date of Meeting	21 st September 2021
Portfolio	Cabinet Member for Adult Care and Wellbeing and Children's Services
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Approval to amend RBC Corporate Deputy eligibility criteria

Executive Summary

- 1.1 The wellbeing principle of The Care Act 2014 makes it clear that a Local Authorities duty is to ensure the wellbeing of individuals must be at the centre of all it does. It is important to consider financial wellbeing for individuals when looking at their overall wellbeing.
- 1.2 Adult Care offer a Corporate Appointee & Deputy (Property & Financial Affairs) Service for residents with eligible care and support needs.
- 1.3 An Appointee is someone who is appointed by the Department of Work & Pension (DWP) to receive and manage someone's DWP benefits, this includes spending the benefits in the person's best interests (for example paying for priority bills).
- 1.4 A Deputy (Property & Financial Affairs) is someone appointed by the Court of Protection to manage the property & financial affairs of a person who lacks the mental capacity to do this for themselves. This would be required where a person has income or assets other than DWP benefits.
- 1.5 We currently have (as at period 2) 298 live Appointee cases and 2 live Deputy cases.
- 1.6 The current eligibility criteria for a person to access the Corporate Deputy service is that they have eligible care needs:
 - They do not already have an appointee/deputy and have not appointed a Lasting Power of Attorney (LPA)
 - They have no appropriate family, friends or associates who can help them with their finances
 - They lack mental capacity to manage their financial affairs
 - They have income or assets other than DWP benefits

- They have less than £16,000 in assets or property

The table below is an excerpt from the current Appointeeship and Deputyship Guidance document showing the current outcomes for the management of financial affairs based on this current eligibility criteria.

Financial Capacity Y / N	State Benefits Y / N	Capital Assets Y / N	Own Property Y/N	Other Income Y / N	Outcome
No	Yes	No	No	No	RBC Appointeeship
Yes	Yes	No	No	No	RBC Appointeeship
No	Yes	<£16k	No	Yes	RBC Deputyship
No	Yes	<£16k	Yes	Yes/No	Solicitor – Deputyship
No	Yes/No	>£16k	Yes	Yes/No	Solicitor - Deputyship

- 1.7 Where it is in a person’s best interest to have a Deputy (Property & Financial Affairs) and they do not meet the RBC eligibility criteria the case would be referred to a Court of Protection approved ‘Panel Solicitor’

Recommendation

- 2.1 It is recommended that Cabinet approve the amendment to increase the capital asset value threshold in the eligibility criteria for the ACS Corporate Deputyship service. This will mean that service users with less than £25,000 in capital assets or property can access the RBC Corporate Deputy service, instead of the current threshold which is set at the lower value of £16,000.

Reason for Recommendation

- 3.1 The RBC named Corporate Deputy is Steven Blezard (Director of Operations, Adult Care) who asked us to review the current eligibility criteria for our Corporate Deputy service due to our low case numbers and to ensure that service users are able to access this service that can be vital to ensure their financial wellbeing.
- 3.2 The recommendation outlined above was made to the named Deputy as part of a wider review process, and agreement in principle was given to explore and proceed with the threshold increase as outlined in 2.1.
- 3.3 There is a gap between our current asset limit of £16,000 and the minimum asset limit that a Panel Solicitor would usually accept a referral at (between £20 – 25,000). This means that where it is in a person’s best interests to have a Deputy (Property & Financial Affairs) they may not be able to access this service which then impacts on their financial wellbeing.

- 3.4 This will allow us to ensure that more service users are able to access this service that can be vital to ensure their financial wellbeing.
- 3.5 In addition, this may have a positive outcome for some of our existing service users as we can ensure they are suitably placed under the correct service, either Appointeeship or Deputyship and receiving the necessary support and they need.

Key Points for Consideration

- 4.1 The wellbeing principle of the Care Act 2014.
- 4.2 The current criteria leaves a gap meaning some people are unable to access this service.

Costs and Budget Summary

- 5.1 The costs associated with the Deputy Service are fixed by the Court of Protection in the Practice Direction B 'Fixed Costs in the Court of Protection' document.
- 5.2 The costs associated with the Deputy Service are charged to the service user themselves and there are no direct costs to the authority. A cost vs benefit analysis would be completed for each eligible case to ensure that the cost of the Deputy Service does not outweigh the benefits, particularly for those in a residential placement where the Appointee cost is lower than the associated Deputy costs. Please see example costs below:

Example 1: service user living in the community with £18.5k capital

- Appointee Fee cost £862.20 p/annum
- Deputy Fee cost £847 Year 1/£787 subsequent years

Example 2: service user living in a residential placement with £22k capital

- Appointee Fee cost £450 p/annum
- Deputy Fee cost £1132 Year 1/£1072 subsequent years

- 5.3 Local Authority costs are lower than those that a Solicitor is able to charge and this is why panel Solicitors are reluctant to accept a referral where assets are lower than £20 – 25,000 (to ensure that the cost of the service doesn't outweigh the benefits).

Risk and Policy Implications

- 6.1 If agreed, the relevant Adult Care operating policies will be updated accordingly to reflect the new approved deputyship thresholds as outlined in this cabinet report.
- 6.2 Applications to become a Deputy (Property & Financial Affairs) will only be made where a Mental Capacity Assessment has been carried out to confirm the person lacks the capacity to manage their own financial affairs AND where a Best Interest Assessment has been complete to confirm this is in a person's best interest.

Consultation

Background Papers

Place of Inspection

Appointee & Deputy
Guidance

Managing Service Users
Financial Affairs



Appointeeship and
Deputyship Guidance



Managing Service
User Financial Affairs

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