



Author/Lead Officer of Report: Liam Duggan

Tel: 29 30253

Report of: Jayne Ludlam, Executive Director People Services
Report to: Cllr Chris Peace, Cabinet Member for Adult Social Care
Date of Decision: 25th March 2019
Subject: Council run Deputyship Service - implementation

Is this a Key Decision? If Yes, reason Key Decision:-	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
- Expenditure and/or savings over £500,000		<input type="checkbox"/>		
- Affects 2 or more Wards		<input type="checkbox"/>		
Which Cabinet Member Portfolio does this relate to? <i>People</i>				
Which Scrutiny and Policy Development Committee does this relate to? Healthier communities & adults social care				
Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? 475				
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:				

Purpose of Report: Seeking approval to implement a council run Deputyship service for people who lack the mental capacity to manage their own finances.

Executor Services have developed the capacity to deliver this additional service within the existing team and can provide a less expensive alternative to private solicitors for 300-400 people across the city who lack the capacity to manage their own finances, as defined by the Mental Capacity Act 2005.

The service will help to protect vulnerable people from the risk of financial abuse and provide an efficient response to financial disputes to help individuals to avoid accruing debt.

The service will generate approximately £190k per year additional revenue for the council and save each individual client over £900 per year compared to private rates.

Recommendations:

Executor Services to commence providing a Deputyship Service from April 2019.

Background Papers:

(Insert details of any background papers used in the compilation of the report.)

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Tony Greenwood
		Legal: Clare Shepherd
		Equalities: Ed Sexton
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	EMT member who approved submission:	Jayne Ludlam
3	Cabinet Member consulted:	Cllr. Chris Peace
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Liam Duggan	Job Title: Head of Business Strategy - Business Planning
	Date: 25th March 2019	

1. PROPOSAL

- 1.1 This proposal is to implement a Council run Deputyship Service as an extension of the Appointeeship Service already operated by our Executor Services team.
- 1.2 Both deputyships and appointeeships provide support for people who lack the mental capacity to manage their own finances. While appointeeships are suitable for people on state benefits or state pension, deputyships are required for people with resources over £16k, including private income, savings and property.
- 1.3 Currently, Sheffield residents requiring a deputyship are referred on to a private solicitor once our Legal Services team has applied to the Court of Protection (CoP) on their behalf. It is proposed that the Council's Executor Services team take over the application process and apply directly to be appointed as Deputy in response to future referrals.
- 1.4 Following improvements to software and banking services, Executor Services will have the capacity for up to 300 deputyships.
- 1.5 Advice and support on policy and procedures has been sought through the Association of Public Authority Deputies (APAD) and Sheffield City Council's Legal Services and the service is now ready to go live.

Next Steps

- 1.6 Following approval to implement the new deputyship service, it is proposed that Executor Services take on deputyship clients from April 2019, including the transfer from existing appointeeship clients where it is deemed appropriate.
- 1.7 Legal Services will continue to support Executor Services in the initial period, embedding training on the CoP application process and Best Interest decision making.
- 1.8 Based on the current rate of applications the team's capacity of 800 clients, nominally 500 appointeeships and 300 deputyships, will be reached in the second year of service.
- 1.9 Communication will be sent to Social Work teams to advise them of the new service and how to make referrals.
- 1.10 Access to an Independent Financial Advisor accredited with the Society of Later Life Advisors (SOLLA) will be procured through Commercial Services.

2. HOW DOES THIS DECISION CONTRIBUTE?

2.1 Councils are not legally required to offer a Deputyship Service, but the majority opt to do so, and it provides several benefits for the individual, as well as providing additional revenue to the council.

Client Benefits:

- Quicker turnaround. From application to appointment currently takes 9-12 months. Going from a two-step process to one-step will reduce the time to a deputy being in place by an estimate of 4-6 months.
- A lower cost service. Local Authority fees are lower than private solicitor fees, so the council service would save each individual with a deputy approximately £5,300 in the first 5 years of service.
- Safeguarding. Solicitors may be reluctant to take people with low value estates on as a client leaving them vulnerable to financial abuse from other third parties.
- Debt avoidance. A council delivered service will be better placed to resolve or avoid payment disputes and avoid debts accruing, while still representing the client's best interests.

2.2 Local Authority benefits:

- Income. The council will receive £745 per client when the CoP appoints them as deputy, then £775 in fees at the end of the first year and £650 per year thereafter. Once at capacity, this equates to £190,000 per year (based on 300 clients).
- Efficiency. A council run service with access to council systems and processes will reduce time spent on resolving payment disputes, queries on finances and social care duties, and the recovery of application fees.
- Management of Care Home fees and deferred payment loans. Because the appointment of a Deputy can take up to a year, care home placements can be funded by the council in the interim through a deferred payment loan. The recovery of these loans would be significantly improved under a council run service.

2.3 A council delivered Deputyship Service will put Sheffield City Council in line with the majority of local authorities in England and supports the Health and Well-being of Sheffield.

2.4 The service will support Sheffield residents who lack mental capacity to manage their own finances, ensuring they are able to access the care and support they need without avoidable delays.

2.5 While presenting a financial benefit to the individual through lower charges, there is an opportunity to realise additional income to support the Council's social care duties.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 The service will be made available to a small number of people who lack the mental capacity to determine their own care and support and do not have a carer to fulfil that role. Whether the service is appropriate for each individual will be determined by a Best Interest Assessment. The new service will be available for new deputyship referrals and will not remove access to any existing services, nor will it transfer existing deputyship arrangements away from external providers. Therefore it is not required nor is it appropriate to consult on this proposal.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

- 4.1.1 The creation of a council run Deputyship service presents a positive move, advancing equality of opportunity for vulnerable people (for example older people with dementia) giving them a voice in decisions in their best interest and giving them access to their own finances that might otherwise be denied them.
- 4.1.2 People without the mental capacity to manage their own finances are vulnerable to financial abuse. The council run service would provide a lower cost alternative to a solicitor, and be more readily available to people with lower levels of capital.
- 4.1.3 Access to a deputyship service for Sheffield residents will be improved by increasing the overall capacity of the market and reducing the risk of delays associated with applications to external providers.

4.2 Financial and Commercial Implications

- 4.2.1 The council delivered service would save each client over £900 per year compared to private deputyship rates - approximately £5,300 in the first 5 years of service.
- 4.2.2 There is also a financial benefit to the council through providing this service. The 2019/20 budget assumes income to the Council of £188k.
- 4.2.3 This is based on maintaining a client list of 300 people. The time required to reach that volume is dependent upon the capacity within Assessment & Care Management to assess the mental capacity of individuals referred to the service, and the timely administration of the application by the Court of Protection.

4.3 Legal Implications

- 4.3.1 Creating a Deputyship service within the same organisation which charges the individual for contributions towards their care presents a potential for conflict of interest. This will be mitigated in several ways:

- 4.3.2 The decision to refer clients for a deputyship does not sit with the service, but will be made through a Best Interest Assessment by a social worker, working in a separate department under a specific legal framework.
- 4.3.3 Executor Services, which will deliver the deputyship service, have a formal procedure setting out their responsibility in representing clients' interests with regards to their financial contribution, including a check and challenge on invoices.
- 4.3.4 Guidance on Best Interest Decision Making with regards to debt recovery, gifts and payments, in line with the five principles of the Mental Capacity Act, will inform decisions taken by officers. Furthermore, all decision making will be formally recorded as part of an annual report to the Office of Public Guardians.
- 4.3.5 The Council's Internal Audit service also provides a check and balance to our internal processes.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 The alternative to an in-house solution is already in existence – the use of solicitors at a higher cost to the client. It may still be necessary to use solicitors as the most appropriate provider in circumstances where the client's finances are complex or where there is an existing dispute with the council.
- 5.2 The capacity and caseload of the Executor Services team was considered as a potential variation to this proposal. As the service develops, there remains the potential to review the teams caseload capacity and recruit more staff in order to deliver best value for clients.

6. REASONS FOR RECOMMENDATIONS

- 6.1 It is recommended that approval is given to implement the Council run Deputyship Service in order to deliver a service that meets a recognised public demand.
- 6.2 The proposed model maximises the potential capacity of the existing workforce and delivers the best financial return on the investment in new software.
- 6.3 As a result, it will deliver a service that:
- Represents vulnerable people in a fair and responsible way
 - Delivers a more efficient route to representation than is currently available in Sheffield
 - Delivers additional income to the council that would otherwise be paid to external providers at a higher rate
 - Brings Sheffield into line with other local authorities