

Policy Committee Decision Report

Title of Report:	Corporate Appointeeship Strategy
Date of Decision:	30 th October 2024
Report To:	Adult Health and Social Care Policy Committee
Report Of:	Alexis Chappell, Strategic Director, Adult Care and Wellbeing
Report Author:	Mary Gardner, Strategic Commissioning Manager

Executive Summary:

This report details our position on Corporate Appointeeships, including issues with our current approach.

The report makes the case for change and highlights potential options that were considered as part of an appraisal process.

Option 2 is recommended: Executor Services would be the primary option for corporate Appointeeships; where this isn't appropriate (in a limited number of cases), the Council would arrange the service from an external organisation. This option will provide quality assurance, offers best value and gives regard to the best interest of individuals.



Council Plan outcomes:

[Great neighbourhoods that people are happy to call home](#)

[People live in caring, engaged communities that value diversity and support wellbeing](#)

[A city on the move – growing, connected and sustainable](#)

Policy Committee remit:

This report is to be considered by the Adult Health and Social Care Policy Committee as its remit includes adult social care: [Part 3C - 3.3 Matters Delegated to Committees May 2024.pdf \(sheffield.gov.uk\)](#)”

Does the report contain confidential or exempt information? No

Recommendations:

It is recommended that the Adult Health and Social Care Policy Committee:

1. Notes the review of Appointeeships and mitigations in response to the review.
2. Approves the proposal for the Council’s in-house provider (Executor Services), to provide Corporate Appointeeships where appropriate, whilst making external purchases available where a best interest assessment, or other circumstance identifies this is required.
3. Notes that a progress review update will be brought to Committee within 6 months of this Committee meeting, as part of the Safeguarding Delivery Plan Update to Committee.

Financial Implications: Yes Approved by Laura Foster

Legal Implications: Yes Approved by: Marcia McFarlane/ Claire Farrell

Equality and Inclusion Implications: Yes Approved by: Ed Sexton

Full Equalities Impact Assessment completed with EIA number: 2867

Climate Change Implications: Yes Approved by: Catherine Bunten

Background Papers: None

Appendices:

Appendix 1 – Appointee Survey

Appendix 2 – Equalities Impact Statement.

Appendix 3- Climate Impact Assessment

1. Background to the issue

- 1.1 An appointee is a person appointed by the Department for Work and Pensions (DWP) 'to deal with the benefits of someone who cannot manage their own affairs because they are mentally incapable or severely disabled. An appointee can be:
- An individual e.g. a family member or friend.
 - An organisation or representative of an organisation e.g. solicitor or local authority (also known as a corporate appointee).
- 1.2 An Appointeeship differs from a deputyship as follows:
- A **deputy** is put in place by the Court of Protection and undertakes the responsibility for the management of **all** a person's financial affairs if they become incapable of doing so themselves. This may include savings, pensions and all other sources of income or assets including property and valuables.
 - The exact level of responsibility and authority granted by the Court of Protection varies as it depends on the individual court order granted.
 - An **appointee** has the responsibility to act in the best interest of the individual by managing a person's welfare benefits to ensure that everyday bills are paid and to report any changes in circumstances to the DWP. Hence, **an appointee has a smaller level of legal authority over someone's finances as it is simply restricted to their welfare benefit payments.**
 - A deputy is supervised and regulated by the Office of the Public Guardian (OPG) whilst appointees are regulated by the Department of Work and Pensions (DWP).
- 1.3 An Appointee is responsible for: -
- Making and maintaining any benefit claims.
 - Signing the benefit claim form.
 - Telling the benefit office about any changes which affect how much benefits the claimant gets.
 - Spending benefits in the claimants' best interests.
 - Telling the benefit office if the Appointeeships has stopped e.g. the claimant can now manage their own affairs.
- 1.4 Our preference is that, where possible, family members or friends act as an appointee for a person as the least restrictive option. This is in line with principles set out in the Mental capacity Act, which are:

- **Presumption of Capacity** - We cannot assume a person lacks capacity based on their age, appearance, mental/physical health or disability.
- **Individuals being supported to make their own choices** - We must offer all appropriate and necessary support before we or other statutory partners consider a person to lack capacity. We should make every effort to support a person to make decisions for themselves.
- **Unwise decisions** - People have the right not to be treated as lacking capacity merely because they decide that others deem 'unwise'. Everyone has their own values, beliefs and preferences which may differ from others. However, we need apply appropriate levels of professional curiosity, ensuring the person can, for example, understand the consequences of their actions, or lack of actions were this to continue. We must consider if the person has [executive capacity](#) which may affect their ability to foresee the consequences or their decisions.
- **Best Interests** - Anything done for or on behalf of a person who lacks mental capacity must be done in their best interests. Specific to a decision to put an Appointeeships in place, the Best Interests stage we will evidence the different options available and evidence why the chosen option is in the person's best interests.
- **Least Restrictive Option** - When deciding or acting on behalf of a person who lacks capacity, we must consider whether it is possible to decide or act in a way that would interfere less with the person's rights and freedoms, or whether there is a need to decide or act at all.

1.5 Corporate Appointeeships are provided where a person lacks capacity and does not have:

- A suitable family member, friend or carer willing to act as their appointee, or
- A Deputy who has been appointed by the Court of Protection under Part 1 of the Mental Capacity Act 2005, or
- A person appointed under Part 7 of the Mental Health Act 1983 who is treated as a deputy by virtue of the Mental Capacity Act 2005 with power to claim or receive benefit on the persons behalf, or
- An attorney with a general power, or a power to claim or receive benefit, who has been appointed under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985, the Mental Capacity Act 2005 or otherwise.

1.6 The Council currently funds the majority of Corporate Appointeeships on behalf of individuals who meet these conditions.

- 1.7 In Sheffield the current arrangement for Corporate Appointeeships is to use either in-house Executor Services or an external provider to deliver the service to individuals on the Council's behalf.
- 1.8 This was a previous policy decision taken by the Council as it ensures those who are most vulnerable of financial abuse can get appropriate support. It also protects those who may have minimal income or who are in debt. Those individuals would not be able to afford to buy these services privately.
- 1.9 As of September 2024, there are 885 people supported through Appointeeships within Sheffield and the current annual expenditure on Appointeeships is c. £775,000. This is split between:
- Executor Services (Sheffield City Council In-house Service) provide 76% of corporate Appointeeships at 66% of the total annual cost (c£512,000).
 - Four external providers deliver the remaining 24% of corporate Appointeeships at 34% of the total annual cost (c£263,000)
- 1.10 A review of Appointeeship arrangements has been carried out to evaluate whether current arrangements are effective, delivering wellbeing outcomes for vulnerable adults, including financial safety, and achieving best value. Also, to assess the extent to which, where an organisation is acting on behalf of the Local Authority, there is clear arrangements in place.
- 1.11 The review contributes to delivery on our Adult Care Strategy and in particular priority 1, Safeguarding and our Safeguarding Delivery Plan.

2. Proposal

- 2.1 Our aim is to provide safe and secure support for people who need assistance with managing their Department for Work and Pensions (DWP) benefits through Appointeeships, with improved ability to provide quality assurance and deliver value for money, whilst upholding principles of facilitating individual choice and independence.
- 2.2 The review of current arrangements identified the following risks: -
- **Risk 1 (Contractual Arrangements)** - Where the Corporate Appointee is not the Council, Appointeeships fees are paid via a spot purchase. There are no contractual arrangements in place to support effective monitoring, and this can lead to a risk of financial abuse to the individual. This is undesirable because those requiring Appointeeships services are vulnerable people who typically lack capacity.
 - **Risk 2 (Quality Assurance)** - The Department of Work and Pensions (DWP) regulates Appointeeships and monitors appointees to ensure

they are suitable for the claimant and the situation. The DWP sends an annual letter asking if the person's circumstances have changed, but they don't quality assure delivery. Where the Council is paying Appointeeships fees to external Corporate Appointees, there are currently no additional quality assurance or monitoring arrangements in place. This can mean it is not clear if the requirements for Appointeeships are being met.

- **Risk 3 (Fee Rates)** - External Corporate Appointees act independently when requesting fee increases from the Council: some ask for no increases, others automatically apply them. As there are no formal contracts in place, and there is no obligation on the Council to increase fees, it is difficult to apply fair and equitable approaches.
- **Risk 4 (Best Value)** - The Council has a duty to consider 'best value' when purchasing goods / services. This duty applies to economic, environmental, and social value. By including best value principles to Corporate Appointeeships arrangements, we can standardise the fees we pay. For example, in 23/24 Sheffield City Council's Executor Services weekly charge was up to £14.50 lower than some external Corporate Appointees.
- **Risk 5 (Informed Choice)** – It was unclear the extent to which a person can make an informed choice given variable arrangements in relation to provision of Appointeeships.

2.3 Alongside these risks, the review found that improvements to current practice and processes for arranging corporate Appointeeships are needed, including better relationships with the DWP. Refreshed arrangements will be included in our practice guidance to ensure equity and consistency of arrangements in place

2.4 Options Appraisal

2.4.1 Options were considered as set out below

2.4.2 Option 1: Do Nothing.

This is Not Recommended.

Given the current situation, which carries risks as mentioned above, the current situation is not delivering best value or ensuring quality assurance in the provision of Appointeeships.

2.4.3 Option 2: Executor Services as the Primary Option with procurement through External Agencies as required.

This is the recommended option. If approved, officers will begin work on an implementation plan that ensures best value, improved quality assurance,

whilst giving regard to Best Interests considerations. This will be provided to Committee as part of the Safeguarding report in 6 months' time.

Corporate Appointeeships would primarily be delivered in house by the local authority, with the option to procure external organisations flexibly (for example, in a period of surge in demand, or where individuals make a request for a dedicated provider, or where this is identified as part of a best interest assessment).

- Risk 1 and 2 (Quality Assurance and Contracts) – These are mitigated by option 2 because delivering Corporate Appointeeships in-house means there will be oversight and monitoring arrangements in place as part of existing service performance management. In addition, there would be clear links across social work, commissioning teams, safeguarding, housing and health where risks to the individual are identified, building on existing arrangements in place.
- Having fewer externally provided Corporate Appointeeships would support the delivery of quality and contractual oversight within existing capacity.
- Risk 3 and 4 (Fee Rate and Best Value) – The current charge for in-house services are one of the lowest. Corporate Appointeeships delivered in-house (where appropriate) will improve the value we get from our spend. Where external provision is required, having a good benchmark for delivery costs will support best value.
- Risk 5 (Informed Choice) – The Council anticipates an individual's requirements would be primarily met by the in-house service, and the option to externally procure where people require or request a provider other than the Council remains available.

2.4.4 Option 3: Executor Services as the primary option and external providers on a Recognised Provider List as the secondary option.

This is Not Recommended.

A Recognised Provider List (RPL) is a list of external providers who are signed up to standards set out by the Council, but there is no control on price. This allows for basic quality assurance but would not deliver best value on pricing. This option would risk non-compliance with the Council's Contract Standing Orders and Public Procurement Regulations because both require transparency and competition.

- Risk 1 and 2 (Quality Assurance and Contracts) – With this option, additional dedicated resources would be required to monitor, and quality assure the providers. This would be in addition to the cost of providing Corporate Appointeeships services. Any additional staffing resource would generate a further annual recurring pressure on Adult Care and Wellbeing's budget. (Example estimate: 0.25 FTE

Commissioning Officer, 0.25 Contract & Quality Officer, 0.25 FTE Performance Officer = £45,000)

- Risk 3 (Fee Rates) – With an RPL, the Council cannot set a rate and so therefore this remains a risk.
- Risk 4 (Best Value) – To meet best value, the Council would use its rate as the benchmark (same as Executor Services or lower). This may not be sufficient to meet the fees of some external providers and due to this risks the Council being the default provider without a clear plan to meet potential demand.
- Risk 5 (Informed Choice) – This option would provide informed choices for individuals.

2.4.5 Option 4: Executor services as a primary provider with external providers via a Framework or a Dynamic Purchasing System

This is Not Recommended.

The Council would still retain capacity for Executor Services to be the default provider, with all external providers going through a tendering process to offer agreed standards, either with a given price, or encouraging a competitive price through mini-tenders. If accepted onto the contractual arrangement, the Council would be able to run mini-tenders for provision where the in-house offer was not used. This offers quality assurance, monitoring and competitive pricing.

- Risk 1 and 2 (Quality Assurance and Contracts). With this option, additional dedicated resources would be required to establish the contract, monitor, and quality assure providers. This is in addition to the cost of providing the Appointeeships and in house provision. This would generate a further recurring pressure on Adult Care and Wellbeing's budget. (Example estimate: 0.25 FTE Commissioning Officer, 0.25 Contract & Quality Officer, 0.25 FTE Performance Officer = £45,000)
- Risk 3 and 4 (Fee Rates and Best Value). To meet best value, the Council would use its rate as the benchmark (same as Executor Services or lower). This may not be sufficient to meet the fees of some external providers and due to this it is likely that the Council will become the default provider.
- Risk 5 (Informed Choice). This option is likely to provide informed choice for individuals.

2.5 Benchmarking was undertaken with regional Local Authorities and in summary key learning was that there is:

- Practice - A need for Practice Guidance, so that there is consistency in understanding of Appointeeship and capacity.
- Model – Most have majority in-house with purchase of external provision.
- Rates and Contracts - A variety of rates provided to external provision, as with Sheffield.
- Charging - Variability in relation to charging to the person, from no charge to a charge £5.00 per week which they take from the person's benefits if they have over £1000 in their account.

2.6 After reviewing benchmarking and options available, option 4 is a viable alternative to option 2. However, after reviewing all the advantages and disadvantages of each option, option 2 is proposed as the preferred option as it addresses risks at best value.

2.7 Risk Mitigation and Implementation

2.7.1 To mitigate risks in relation to the appointment of a Corporate Appointee:

- Partnership working with the DWP - Officers will establish closer working relationships with the DWP, including sharing implementation plans for recommendations in this report should this be approved by Committee.
- Appointment to a Corporate Appointee – The Council will only fund an agency to act as a Corporate Appointee if they have been directly commissioned by the Local Authority. This reduces risk of external providers charging the Local Authority or advising vulnerable adults that they are acting on behalf of the Local Authority where a commissioning arrangement agreement has not been implemented.
- Practice Guidance – Practice Guidance and our electronic recording systems will be consolidated and issued to our workforce setting out that practitioners should:
 - Consider the least restrictive option, where individuals have difficulty managing their finances and may need assistance, noting that this may not be Appointeeships Services.
 - Assess and confirm that the person lacks capacity and the conditions for Appointeeships are met.
 - Apply a 'Best Interest' decision, which ensures that anything done for or on behalf of a person who lacks mental capacity will be done in their best interests, with evidence of the options available and why the chosen option is in the person's best interests.

2.7.2 The Council acknowledges that Best Interest decisions are likely to have different outcomes for individuals making new requests for Appointeeships services, as against someone already using an external provider. In both situations, the Best Interest considerations will apply.

2.7.3 Should Option 2 be approved by Committee:

- Executor Services will be organised to deliver increased Appointeeships Services over time so that the in-house service can be made available to individuals who require Appointeeships services.
- Assurances will be provided as part of the next Safeguarding Delivery Plan update to Committee in March 2025 that a plan is in place to ensure a safe transition to new arrangements, as well as sufficiency to meet need.
- Individuals who use existing external providers for Appointeeships services can be offered the Council's expanded service as an alternative once inhouse arrangements are in place to support delivery of this anticipated increase demand for internal support.
- Where it has been identified that an individual needs corporate Appointeeship services, then, subject to the outcome of Best Interest considerations they will be offered services from Executor Service. If Best Interests decision finds that specific services required can only be met by an external provider, then the Corporate Appointeeships service can be arranged through the chosen external provider.

3. How does this decision contribute to the Council Plan?

3.1 Council Plan outcome

- 3.1.1 Together we get things done' (the corporate plan for the Council) sets out the strategic outcomes that Sheffield City Council wants to achieve.
- 3.1.2 Outcome 3 states that 'People live in caring, engaged communities that value diversity and support wellbeing. The plan goes on to say, 'We want more people to live long, independent and fulfilling lives free from harm and poverty.' Corporate Appointeeships support this by helping some of the most vulnerable people in our communities manage their benefits, meaning people can spend their money in a responsible way, knowing their bills and other important costs will be paid.
- 3.1.3 This proposal supports the following outcomes from 'Living the life you want to live':
- Safe and well - 'has the right to feel safe in a place they can call home (at home or in a homely setting) and protected from harm.' (Living the life you want to live). Corporate Appointeeships help to protect people from harm, particularly financial abuse, by helping people spend their benefits in their best interests.

- There is a link between this and the Safeguarding Delivery Plan. The Safeguarding Delivery plan will be updated to reflect the proposal set out here. Corporate Appointeeships are an integral part of our plan to support adults to prevent abuse and mitigate risk in appropriate circumstances.
- Efficient and effective – ‘Our transparent decision-making system delivers best value.’ (Living the life you want to live). The proposal supports Adult Care and Wellbeing to get best value.

3.2 People – Prosperity – Planet

3.2.1 This proposal fits with the policy vision of ‘People’ as described in the Council Plan. As a ‘City of Sanctuary,’ we provide safety to those who are most vulnerable in our society. Delivering quality assured Appointeeships will mean we support people who are at risk of financial abuse.

3.3 City Goals

3.3.1 This proposal aligns with City Goal 8: ‘We all have a say over what happens in our neighbourhoods, and shape our city around fairness, equity, wellbeing and combating poverty.’ Appointeeships help people who lack capacity or who are severely disabled, manage their DWP benefits in their best interest. This helps safeguard against financial abuse and combat poverty.

4. **What community or partner engagement has been undertaken and how has it informed the proposal?**

4.1 Discussions have taken place with each current external Appointee provider in Sheffield, Executor Services, and social work staff. Questions were asked about the current model, what works, what does not, and what could improve.

4.2 Furthermore, we wanted feedback from people who are currently using Executor Services as their appointee. To get feedback, we designed a short and simple survey. Executor Services took a random sample of 24 people (around 4% of their total Appointeeships) and responses came from individuals, or in some cases their family/advocate as people with an Appointeeships often lack capacity. Feedback in full, is available in Appendix 1. The feedback was positive, providing further evidence to support the choice of option 2 from our options appraisal.

4.3 We asked how well is the Appointeeships going, answers in the main were positive and included:

- ‘It’s going well, I have enough money and when I ask for money or things I get them. So, I have no issues’
- ‘75% positive, 25% negative – sometimes when I need my Appointee, she is on holiday’
- ‘It’s going well, it helps a lot’

- ‘Staff – very happy with Appointeeships, good effective communication ensuring client has financial support’
- We also asked if people could think of ways to make their Appointeeships better, responses included:
- ‘The only thing that would make it better is if you were always available to take my calls - I know you have other clients but that’s not my problem’
- ‘Make it so that when it is a bank holiday, we get paid before and not the day after’
- ‘Communication is the key and its good for now’

5 What alternative options did we consider?

- 5.1 All alternative options were set out in section 2.3 above. Please refer to this section for detail.
- 5.2 **Alternative Option 1**
Do nothing - This is because this is the current situation and has inherent risks as noted above and is not providing best value and quality assurance regards provision of Corporate Appointeeships.
- 5.3 **Alternative Option 3**
Executor Services as a default option and external providers on a RPL as the secondary option. Although this option gives more quality assurance, it is more expensive as it does not control the cost of external providers and likely to not comply with council standards.
- 5.4 **Alternative Option 4**
External providers on a Framework – although a satisfactory option it is not as cost effective as option 2.

6. How has equality, diversity and inclusion been actively considered?

6.1 *A full equality impact assessment is included at Appendix 2*

6.2 The ethnic distribution of current Appointeeship users reflects the broader market, with approximately 85% of the Appointeeships held by white individuals and 15% by minoritised communities.

6.3 In term of gender representation, about 59% of the Appointeeships are held by males and 41% by females, which does not align with the latest census. Studies showed that males had higher rates of mental health services access compared to females, often resulting in loss of capacity and subsequent need for Appointeeships. Nevertheless, all our proposals should not have any impact on the equality.

7. Financial and Commercial Implications

7.1 For 23/24, the cost of providing Corporate Appointeeships via Executor Services was £14.50 per person per week.

7.2 The proposed option 2 aims to develop capacity within the in-house Executor Services team. As part of the implementation plan, work will be undertaken to review the additional staffing capacity and training requirements necessary to meet demand.

7.3 The weekly fee will be reviewed for 25/26 as part of the wider fee setting process and will take into account the changes being made to the delivery of the service.

7.4 It is proposed that this option will be delivered with the support of existing Commissioning staff resources. A further report will be brought to committee which details the implementation plan. Any additional costs of implementation will need to be delivered within available resources and will be subject to approval.

8. Legal Implications

8.1 Under section 57 The Universal Credit, Personal Independence Payment, Jobseekers Allowance and Employment and Support Allowance (Claims and Payment) Regulations 2013, the Local Authority may act as an Appointee where a person who lacks capacity and does not have a:

- Suitable family member, friend or carer willing to act as their appointee,
- Deputy appointed by the Court of Protection under Part 1 of the Mental Capacity Act 2005,
- A person appointed under Part 7 of the Mental Health Act 1983 who is treated as a deputy by virtue of the Mental Capacity Act 2005 with power to claim or receive benefit on the persons behalf,
- An attorney with a general power; or an attorney with power to claim or receive benefit, who has been appointed under the Powers of Attorney

Act 1971, the Enduring Powers of Attorney Act 1985, the Mental Capacity Act 2005 or otherwise; and

The additional requirement in section 57(3) is satisfied, namely that the person to be appointed has made a written application to the Secretary of State to become the appointee.

8.2

According to Section 57 (8) of the above 2013 Regulations, an Appointeeship will end where either the DWP revokes the Appointeeship, the Appointee resigns or the DWP is notified that the individual has a receiver, deputy or someone with power of attorney.

8.3

The Council's duty of care under the Care Act 2014 includes ensuring that where a person has care and support needs, appropriate consideration is given to putting measures in place to mitigate risks to them; that measure could include the council becoming a corporate appointee in appropriate cases and oversight of third party organisations that do this on the council's behalf.

8.4

Care Act guidance refers to the need to protect people from abuse and neglect. In any activity which a local authority undertakes, it should consider how to ensure that the person is and remains protected from abuse or neglect. This is not only confined to safeguarding issues but should be a general principle applied in every case including with those whose self-neglect and abuse results from financial circumstances. Appropriate use of Corporate Appointeeships can be used to deliver the principles under the Care Act guidance

8.5

Any implementation of these proposals must not contravene the Council's obligations to vulnerable people including those set out in the Mental Capacity Act 2005 and Care Act 2014.

8.6

The selection of external corporate appointees and award of contracts must also comply with the Council's Contract Standing Order and the Public Procurement Regulations or any legislation replacing it. Further, when implementing these proposals, the Council must comply with all legal obligations including GDPR, Equalities Act 2010; and obtain appropriate HR advice where staffing implications are likely.

8.7

9. Climate and Environmental Implications

9.1 The Council expects all providers with whom it contracts to contribute to its net zero ambitions. The impact on the climate from recommendations in this report, however, is minimal given the small number of people and providers concerned.

10. Other implications

10.1 Not Applicable

11. Reasons for decision

- 11.1 Option 2 offers the best balance between value for money, quality assurance, and operational efficiency and addresses risks identified. Executor Services is one of the best value options available, whilst providing the outcomes that DWP requires of Appointeeships.
- 11.2 This option also enables integrated approaches across social care, housing, and health to easily share, and update information. Finally, in the current financial climate, it is vital that we get best value, option 2 provides this.

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