

6th January 2014

Agenda Item: 6

REPORT OF THE SERVICE DIRECTOR FOR BROXTOWE, GEDLING AND RUSHCLIFFE

PROTECTION OF PROPERTY AND FUNERAL ARRANGEMENTS POLICY

Purpose of the Report

1. To request that the Adult Social Care and Health Committee:
 - i. Considers the revisions to the Protection of Property and Funeral Arrangements Policy
 - ii. Approves commencement of consultation with service users, their carers and the public in relation to a revised Protection of Property and Funeral Arrangements Policy.

Information and Advice

2. Nottinghamshire County Council has a policy in place to enable it to discharge its duty under the National Assistance Act 1948. The authority has a responsibility to arrange for the protection of property (including pets) of service users who are admitted to hospital or Part III Accommodation, which is defined as voluntary and private sector care homes where residents are funded by the Council, and hostels provided by the Council. Additionally, the authority has a duty to arrange a funeral for any person who dies in Part III Accommodation where there is no other person willing or able to do so.
3. Regarding protection of pets, the Animal Welfare Act 2006 places duties on those persons 'responsible' for the welfare of the animal concerned. This responsibility may pass to Nottinghamshire County Council where the owner lacks capacity and there is no other person willing or able to make necessary decisions concerning the welfare of the animal.
4. The current policy provides for the storage of property or boarding of pets for a 6 week period with an extension of a further 6 weeks if circumstances require. Further extensions beyond these 12 weeks can also be applied for.
5. In 2011, a Law Commission report on Adult Social Care advised that "the duty should apply only as a last resort where no-one else is considered to be in a position to protect the property. However, it is important that this duty does not impose onerous demands on local authorities and that, where appropriate, friends and family members should be expected to look after a person's property

in such cases (supported by the local authority if necessary). In our view, the current duty is sufficiently flexible and only requires action by the local authority if no other suitable arrangements can be made.”

6. It is necessary to review the current policy to provide greater clarity for service users and staff, as currently it is open to interpretation and is therefore applied inconsistently. The result has been that Nottinghamshire County Council has funded the storage of property in some cases for up to 5 years, and the boarding of pets for durations which are unacceptable for the wellbeing of the animal.
7. The cost to Nottinghamshire County Council in 2012/13 for storage and boarding, including transport, was £53,626 with a significant proportion of the costs arising from longer term commitments.
8. Under the National Assistance Act 1948, the authority paid £9,247 in 2012/2013 for funerals as outlined in paragraph 2, and £6,065 in the same year for making a property secure following ‘kick-ins’ where access to a property is required in an emergency following the deterioration in health of a service user. These two services are not the object of this report as they are statutory obligations.
9. Research has established that many local authorities with similar responsibilities have schemes which are significantly less beneficial than Nottinghamshire County Council’s current arrangements. Details of the key elements of the schemes from surrounding East Midlands shire authorities are given in Appendix A. In summary this shows that Derbyshire, Lincolnshire and Leicestershire provide no period of property storage or pet boarding which is free of charge to the service user; conversely, Nottinghamshire’s scheme is currently provided free for a significant period of time and is therefore generous by comparison.
10. It is proposed that the policy is revised to limit the period of time that the authority will fund the temporary storage of property, including pets. The revisions have been drafted with the input of social workers who are involved in applying the policy.
11. Under the proposals, Nottinghamshire County Council would still provide and fund an essential service where people are in a crisis situation to protect their property and pets, and it would remain significantly more beneficial than the authorities’ schemes listed in Appendix A.
12. Various options have been considered proposing a reduced period of time where the Council funds the temporary storage, enabling some savings to be realised. Each option can be viewed in Appendix B. In recognition of the scheme’s remit in a crisis situation, it is proposed that emergency pet boarding and/or property storage be funded by the authority for a period of 14 days, with one extension permitted of a further 7 days. This would total a maximum of 21 days’ boarding or storage and no additional extension free of charge to the service user beyond this time, in view of the fact that the immediate crisis has passed. Although Nottinghamshire County Council is not responsible for returning the pet or property to the owner or new location at the end of this initial boarding or storage

period, the authority currently does fund the transport for pets and property under these circumstances and it is proposed that it continues to do so.

13. Any further storage or boarding beyond this 21 day period would mean that the service user is required to meet the full cost of the service, or the service user would need to make alternative arrangements. If the service user was unwilling or unable to pay, the property would be disposed of and/or the pet re-homed. Social workers would clearly communicate the purpose and scope of the scheme from the outset to enable service users to understand when responsibility for funding boarding or storage passes back to them. If the service user continues with a paid-for service, the contract would be directly between the storage or boarding provider and the service user. This would prevent the need for the authority to put additional and costly administrative procedures in place for the recovery of costs from service users. The service user would be responsible for transport for their pet or property at the end of the period of boarding or storage that they had arranged either privately or with a friend or family.
14. It is proposed that this option is progressed because it balances the need for service users to ensure the security of their property and pets in a crisis with a more transparent and cost effective approach. If adopted, it would save approximately £27,000, or about 50% of the current expenditure, per year. A draft policy document is attached as Appendix C.
15. An Equality Impact Assessment has been developed to understand the impact of the proposals on those with protected characteristics. This report seeks approval to consult with stakeholders, including service users, carers and the public.

Other Options Considered

16. Three options are set out within Appendix B. Further variations were considered based on other authorities' approaches, but in the main were ruled out as they either required service users to make significantly greater financial contributions to their storage, or made no provision for boarding pets. This can be attributed to authorities' different interpretations of the same responsibilities.
17. The recommended option is felt to offer a suitable balance between the need for clarity and an avoidance of long-term storage or boarding arrangements, and the need to make provision for service users in an emergency situation.
18. Recovery of costs where a service user has sufficient funds to pay for storage was considered, which is permitted under the relevant legislation. However, the assessment of ability to pay, together with the administrative costs of recovery, would be expensive and likely to outweigh the costs incurred.

Reason/s for Recommendation/s

19. The reasons for the recommendations are set out above.

Statutory and Policy Implications

20. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below.

Financial Implications

21. The financial implications are described in paragraph 14, and in Appendix B.

Human Rights Implications

22. Article 8 to Schedule 1 of the Human Rights Act 1998 states that “Everyone has the right to respect for his private and family life, his home and his correspondence” and “There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention or disorder of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”.
23. Whilst section 48 of the National Assistance Act 1948 provides the lawful basis for interference with a person’s Article 8 rights, this must be in all instances, proportionate.

Public Sector Equality Duty Implications

24. An Equality Impact Assessment has been developed and is available as a background paper. Consultation will be undertaken subject to the approval of this report.

Safeguarding of Vulnerable Adults Implications

25. No implications are anticipated relating specifically to the safeguarding of vulnerable adults. The chosen policy would apply to all eligible service users.

Implications for Service Users

26. Nottinghamshire County Council will continue to provide emergency protection of property, including pets, as well as arranging funerals in certain circumstances, through its responsibilities under the National Assistance Act. At the end of the agreed period of storage (or boarding in the case of pets), responsibility for funding the arrangements or seeking an alternative provision, will pass back to the service user.
27. Service users’ perspectives, and impact of the revised arrangements upon service users, have been reflected in the development of the draft policy through discussion with operational social care staff who would apply the policy.

RECOMMENDATION/S

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

- 1) Considers the proposed revisions to the Protection of Property and Funeral Arrangements Policy.
- 2) Approves commencement of consultation on revisions to the Council's Protection of Property and Funeral Arrangements Policy as set out in paragraphs 10 to 15 above.

CAROLINE BARIA

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Constitutional Comments (NAB 16/12/13)

28. The Adult Social Care and Health Committee has authority to consider and approve the recommendations set out in this report.

Financial Comments (CLK 27/11/13)

29. The financial implications are contained in paragraph 21 of the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Equality Impact Assessment

Electoral Division(s) and Member(s) Affected

All

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