

9 September 2019**Agenda Item: 10****REPORT OF SERVICE DIRECTOR, STRATEGIC COMMISSIONING,
SAFEGUARDING AND ACCESS****INTERIM REVIEW OF STRUCTURE WITHIN ADULT CARE FINANCIAL
SERVICES – FURTHER TO WIDER WORKFORCE REVIEW****Purpose of the Report**

1. To advise on the outcome of an interim review of Adult Care Financial Services.
2. To seek approval for the Council to be Appointee or Deputy only as a last resort.
3. To seek approval for Adult Care Financial Services (ACFS) to continue to refer deputyship cases to a panel of solicitors, for application and management of property and financial affairs through the Court of Protection.
4. To seek approval to establish 2 temporary full time equivalent (FTE) Deputyship Officer posts (Band A) for six months and 1.6 FTE temporary Finance Assistant posts (Grade 4) for six months from October 2019.

Information

5. An interim review of Adult Care Financial Services focussing on the management of property and affairs has been undertaken. A range of service improvements have been identified.
6. A Corporate Appointee is where the Council is granted the power via the Department of Works and Pensions to collect state benefits for a service user who is unable to manage their own finances.
7. Deputyship is where the Court of Protection grants the Council greater authority to act in all financial matters. A Court Order for Property and Financial Affairs is issued to the Council, so they can act on behalf of a person who is unable to manage their finances. Part of the Deputy's responsibility is to become the service user's Appointee. Once appointed, the Council will manage all the person's finances and property in line with the Mental Capacity Act and the terms of the Court Order.

8. The Corporate Director of Adult Social Care and Health acts as Court Appointed Deputy for service users. Although this is a non-statutory function that the Council provides, Deputyship allows service users to maintain their independence and safeguards them from financial abuse.
9. The Client Finance Team (CFT) will decide whether to proceed with either a Deputyship application or an Appointee application based on the service user's financial circumstances.
10. To illustrate the role, a Deputyship Officer from the CFT, has been working with 'C', who has a learning disability and mental health issues, for many years. He supports him to manage his money so that he doesn't get in to debt. 'C' has always said that he would like to live on the street where he grew up – and when he was left some money, the Deputyship Officer set to work, supporting him through all the negotiations until he picked up the keys to his own house - six doors away from the house he grew up in.
11. The February 2019 Appointee volumes and caseloads have been compared to the January 2016 Appointee volumes and caseloads, as shown below. There has been a 19% increase in Appointee volumes and caseloads.

Corporate Appointees

	Volumes	Caseload per Finance Assistant
2016	638	160
2019	760	190

12. Currently there are 350 Deputyship cases and 4 Deputyship Officers. The average Deputyship Officer caseload is 88 cases.
13. There is currently a waiting list of 77 service users who require a Deputyship Officer. The CFT is currently only Corporate Appointee for these service users. New cases are currently being allocated a Deputyship Officer only when a current service user ceases to require the service. Safeguarding cases (those where it is perceived that the service user may be at risk of physical, financial or emotional harm) do continue to be prioritised, but there is a significant risk that the team will not be able to progress the cases to the point of applying to the court in a timely manner. This, added to the delay in granting the order by the Court of Protection, leaves vulnerable service users at risk and puts additional strain on social workers who have to provide high levels of support to minimise the risk. In 2016 there was a waiting list of 47 cases. In July 2017 there was a waiting list of 89 cases.
14. Obtaining a deputyship order, which is required based on their financial circumstances, for the 77 cases on the waiting list would lead to an additional fee income of £26,417, based on the difference between appointee fee income and deputyship fee income. (From February 2018 to January 2019 the average fee income per month per appointee case was £42.87. During the same time the average monthly income per deputyship case was £71.46).
15. There are currently 35 service users on the waiting list where the Council acts as appointee. As the Council cannot access all their bank accounts until a Deputyship order is granted they are accruing a debt to the Council which currently stands at £499,754.47. Once the order is granted the debt will be settled.

16. The Office of the Public Guardian is a government body that protects people who may not have the mental capacity to make certain decisions about medical treatment or manage their finances. They register Lasting Power of Attorneys and Deputies who act on a person's behalf in health and financial matters. They supervise Deputies by reviewing annual reports submitted by Attorneys and Deputies and investigate concerns raised about how an Attorney or Deputy is acting.
17. In October 2018 the Office of the Public Guardian (OPG) conducted an assurance visit to the Council. They summarised that they were 'genuinely impressed' with the CFT and 'feedback from clients, care staff and family members alike was extremely positive'. However, the OPG also outlined that 'the high number of cases managed by each Deputyship Officer, the time-consuming nature of more independent clients, and the additional reporting requirements to OPG, appears to have created a situation where staffing levels should be reconsidered.' Following further clarification, the OPG explained that other local authorities currently have deputyship caseloads in the region of 50-60 service users.
18. A benchmarking exercise has been undertaken comparing caseloads held by Deputyship Officers within Nottinghamshire County Council to those in comparable authorities. This showed that other local authorities had caseloads of between 43-57 which were a mix of deputyship and appointee cases. There is evidence that the high caseloads in Nottinghamshire have led to issues with staff retention.
19. There has also been an increase in the number of service users supported to live independently in the community across both deputyships and appointee cases. These cases are more complex, substantially more time consuming and require closer management than service users living in residential care. Service users living in the community require more support to manage their money, pay bills and purchase items for their homes. They also require the service for a substantially longer period of time than service users in residential or nursing homes. The Council's Adult Social Care Strategy aims to encourage and enable people to live independent within the community as opposed to living in a residential or nursing care home. The combined volumes of appointee/deputyship cases and whether they live in the community or a residential/nursing homes is detailed below.

Community/Residential Volumes

	2016	2019
Residential	663	582
Community	428	528

20. Since 2016 there has also been a shift in the average age of service users, as shown in the table below. This means service users will remain with the team longer and there is a need to future proof the team to deal with this challenge as this trend is anticipated to continue

Age Ranges - Volumes

	2016	2019
Under 25	57	50
25-64	577	646
65+	457	414

21. The Office of the Public Guardian has a list of panel deputies, who are court approved professionals available to support people who lack mental capacity. The current expectation is that Nottinghamshire County Council should be the deputy of last resort. A pilot to refer cases to a panel of deputies set up by the Council has been undertaken and a formal framework agreement for this is now in place. 12 cases have been successfully referred on. Solicitors are able to charge higher fees to manage deputyship cases, however the service user does get assigned a Deputy quicker this way. As a result, cases are only referred to a solicitor if the service user has substantial assets, usually over £100,000 and they will be unlikely to require financial support from the Council at any point in the future. Permission is sought to make signposting cases where there are known assets over £100,000 to a solicitor the default position.
22. In 2018-19 the CFT generated £743,009 in actual fee income against a forecast income of £448,660. The 2019/20 budget is £649,000. Income has been increasing as a result of current work volumes and appointeeship and deputyship fees and this has resulted in a departmental surplus. This surplus and the increased income will fund these temporary posts.

Other Options Considered

23. The CFT could reject any new referrals for a set period, however this would put many vulnerable service users at risk and provide additional work for social work teams so is not an acceptable alternative.
24. Other options (panel deputies and signposting) have been considered to manage the deputyship and appointee caseloads. However, these options are needed alongside additional staff resource in order to manage the current volumes, bring them to a more manageable level, improve safeguarding and to deal with demographic challenges.

Reason/s for Recommendation/s

25. The interim re-structure and appointment of 2 FTE temporary additional Deputyship Officer posts would enable the CFT to reduce the existing caseload and obtain a deputyship order for the 77 service users on the Council's waiting list. It would also support the social work team who currently must provide additional support to these service users because the CFT do not have the appropriate powers that a deputyship order provides. It will also ensure the Council can safely discharge its existing responsibilities. This can be part funded by increased income generated by changing the waiting list clients from appointee only cases to deputyship cases and a fee income surplus that is already being generated. It is therefore recommended that 2 new FTE Deputyship Officer posts are established.
26. The 1.6 FTE temporary Finance Assistant posts would enable the CFT to significantly reduce the appointee caseload for the current Finance Assistants on the team (circa. 135 cases). This can be funded by fee income surplus that is already being generated. It is therefore recommended that 1.6 new FTE Finance Assistant posts are established.
27. The success of the pilot has been considered and it has supported the CFT to reduce the waiting list from its maximum in July 2017. Four solicitors have now been accredited to receive referrals from the CFT. Whilst referring these cases to solicitors does reduce the

CFT potential income, ceasing this piece of work would have a detrimental impact on the deputyship waiting list. If volumes became manageable the CFT could reconsider the need to refer cases on. It is therefore recommended that the Council continues to refer clients to a panel of solicitors and this becomes the default position for clients who have over £100,000 in assets.

28. If the CFT were not to start signposting relatives to alternative providers for appointee/deputy cases then the CFT would need additional staff resource, above that being requested in this report, based on the current demographic challenges. The Council should be the appointee/deputy of last resort and support from external providers is currently not being fully explored by relatives and social work teams before approaching CFT. Other local authorities currently have this as part of their appointee process. It is therefore recommended that further support is offered to relatives who feel they are unable to take on the role of appointee/deputy
29. If 2 temporary FTE Deputyship Officer posts were established, the CFT could remove the waiting list of 77 service users and reduce the caseload per Deputyship Officer to 72. If 1.6 new FTE Finance Assistant posts were established, it would reduce the Finance Assistant caseload to 136 cases. Approval to continue to refer cases to a panel of solicitors for cases where the service user has over £100,000 in assets and to signpost relatives to alternative providers where the Council is not the deputy of last resort, would further support a reduction in caseloads. Furthermore, it would enable the Client Finance Team (CFT) to build capacity for safeguarding cases.
30. The wider workforce review within the Department will incorporate the service improvements identified.

Statutory and Policy Implications

31. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

32. The cost of establishing 2 temporary FTE Deputyship Officer posts (Band A) is £41,659, and the cost of establishing 1.6 FTE temporary Finance Assistant posts (Grade 4) is £23,598. The full cost of £65,257 would be funded from a combination of additional income and surplus income.

Human Resources Implications

33. The 3.6 FTE temporary posts would all be based in the ACFS Team and line managed accordingly.

Public Sector Equality Duty implications

34. An Equality Impact Assessment is available as background paper to this report.

Implications for Service Users

35. Service users requiring appointeeship/deputyship will be able to get support to manage their finances in a timely manner. Service users who require a Deputyship Officer will be allocated one and the CFT will be able to remove the waiting list which is a safeguarding risk. Cases which have higher risk due to safeguarding will have higher priority.

RECOMMENDATION/S

That Committee gives approval:

- 1) for Adult Care Financial Services to continue to refer Deputyship cases to a panel of solicitors for service users who have assets over £100,000
- 2) for family and friends to be signposted to alternative support from third parties in relation to Appointee and Deputyship cases, ensuring that cases are only taken on by the Council as the last resort. At the end of the six-month period, a review of the future staffing arrangements will be undertaken to determine the permanent staffing levels required
- 3) to establish 2 temporary full-time equivalent (FTE) Deputyship Officer posts (Band A) and 1.6 FTE Finance Assistant posts (Grade 4) for a period of six months
- 4) to receive an update report after six months regarding the reduction in cases and progress.

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Constitutional Comments (AK 28/08/19)

36. The recommendation falls within the remit of the Adult Social Care and Public Health Committee under its terms of reference.

Financial Comments (OC 30/08/19)

37. The increase in cost to establish 2 temporary full-time equivalent (FTE) Deputyship Officer posts (Band A) and 1.6 FTE Finance Assistant posts (Grade 4) for a period of six months is £65,257. This can be met from the additional income generated by the posts and the surplus that is currently being reported as part of budget monitoring.

HR Comments (SJJ 11/06/19)

38. The posts will be recruited to on a temporary basis and the successful candidates appointed on fixed term contracts.

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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