

10 September 2018

Agenda Item: 8

## **REPORT OF THE DEPUTY CORPORATE DIRECTOR, ADULT SOCIAL CARE AND HEALTH**

### **PROTECTION OF PROPERTY AND FUNERAL ARRANGEMENTS POLICY**

#### **Purpose of the Report**

1. To request that the Adult Social Care and Public Health Committee:
  - a. approves the commencement of a six week consultation with service users, their carers and the public in relation to a revised Protection of Property and Funeral Arrangements Policy.
  - b. agrees to receive a report on the outcome of the consultation at its meeting on 10 December 2018, and any subsequent proposed changes to the policy as a result.
  - c. approves the tendering for the provision of property and pets storage in cases covered under Section 47 of the Care Act 2014.

#### **Information**

2. Under Section 47 of the Care Act 2014, the Council has a duty to arrange for the protection of property for an adult being cared for away from home:
  - a. **either** where the adult has been assessed as eligible for social care support and their needs are met in accommodation, such as a care home, **or** the adult has been admitted to hospital **and**
  - b. it appears to the Council that there is a danger of loss or damage to the movable property because the adult is unable to protect or deal with the property, and no suitable arrangements have been or are being made. Movable property includes pets.
3. Paragraph 10.94 of the statutory guidance states that, *“this duty.....lasts until the adult in question returns home or makes their own arrangements for the protection of property or until there is no other danger of loss or damage to property. Often a one off event is required such as the re-homing of pets or ensuring that the property is secured”*

4. The Council also has a duty under Section 46 of the Public Health (Control of Diseases) Act 1984 to arrange a funeral for any person who dies in residential accommodation where there is no other person willing or able to do so. However, this is out of the scope of this committee report (i.e. there is no proposed consultation or re-tendering on this part of the policy).
5. The current policy, agreed by Policy Committee on 22<sup>nd</sup> April 2015, provides for the free storage of property or boarding of pets for 28 days, with an extension of a further 28 days if circumstances require.
6. Internal Audit conducted a review of the policy in March 2018, in order to compare the policy with the legislation and assess if the Council was getting value for money. Their relevant recommendations included:
  - a. ensuring that the identification of other people who can take responsibility for looking after property and pets, should the need arise, is always considered before the boarding of pets / protection of property.
  - b. considering a further review of the policy, should it be perceived that the ongoing costs of policy implementation are higher than they need to be.
  - c. undertaking a review of the interpretation of movable property under the legislation (Section 47 of the Care Act 2014), and a more detailed definition of what ought to be stored, and in what circumstances.
7. Therefore, Committee approval is requested for the commencement of consultation with the service users, their carers and the public in relation to a revised policy on the following three options:
  - a. no change to the current policy, i.e. for the Council to continue to pay for the storage of property and care of pets for 28 days, with a possible 28 day extension.
  - b. a change to the current policy, whereby the Council in future would pay for the storage of property and care of pets for a maximum of 7 days, with a possible extension beyond the 7 days for a further 7 days to be considered on a case by case basis, in exceptional circumstances.
  - c. a change to the current policy, whereby the Council in future would pay for the storage of property and care of pets for a maximum of 2 days, with a possible extension beyond the 2 days for a further 2 days to be considered on a case by case basis, in exceptional circumstances.
8. Under the current policy, the Council pays for the storage of property or care of pets during the 28 / 56 days. If a person remains in hospital or in a care home beyond the 56 days, and no alternative arrangements have been made, they are asked to pay the storage or boarding company for the continued storage or pet boarding. The assessment of the person's ability to pay is made by the social worker involved in each case. Where the service user does pay, they are also responsible for transporting their pet or property at the end of the period of boarding or storage. The contract also becomes directly between the storage or boarding provider and the service user.

9. If the person has no-one able to take responsibility for their property or pet and they are unable to pay towards the cost, the Council continues to pay for storage or pet boarding until the person either returns home or their permanent residence in the care home is confirmed.
10. This means that there is currently, in effect, no limit to the maximum number of days that the Council may end up paying storage or boarding costs, for those unable to pay or where there is no one else able to take responsibility for alternative arrangements. Therefore, Committee is also asked to agree to consult on the following additional amendment to the policy – if, after the agreed period of storage / boarding, the individual is unable to take responsibility for this, and there is nobody else available to do so, then the Council would continue to protect property and pets. However, it will bill the individual for any costs incurred beyond the agreed period. Should payment not be received, the Council would implement its agreed arrangements to recover such funds.
11. Regardless of any change in policy, there will be a drive to ensure front line staff:
  - a. work with service users to identify and set in place advance arrangements, as part of any assessment or review, for individuals such as family, relatives, close friends or other representatives who could be called upon to intervene and look after property/pets if required, where service users are unable to fulfil this responsibility themselves.
  - b. signpost service users to other sources of community support, including from the Voluntary and Community Sector, using tools such as Notts Help Yourself.
  - c. are informed by a more detailed definition of movable property and what ought to be stored, and in what circumstances. The use of the County Council secured facilities will be explored to reduce costs.
12. It is proposed that consultation is undertaken over a six week period via established forums. This includes:
  - a. an on-line survey will be made available on the Council's website.
  - b. a link to the survey will be shared with the Mental Health Co-Production Group, Experts by Experience Group, the Home Care Group, the Older People's Advisory Group, and the Citizens' Panel.
  - c. letters to relevant service users over the past 12 months.
13. Letters and copies of the survey will also be made available in an easy read format.
14. The results of the consultation and any proposed changes to the policy will be brought to the Adult Social Care and Public Health Committee on 10 December 2018.

### **Other Options Considered**

15. Section 47 of the Care Act 2014 requires that the Council must take reasonable steps to protect property / pets and mitigate loss or damage to them in the circumstances set out in **paragraph 2**. Therefore, not offering a service is not an option.

## **Reason/s for Recommendation/s**

16. A proposed reduction in the number of days the Council pays for the storage and property and care of pets to a maximum of 2 days, with a possible extension of a further 2 days, would save an estimated range of £15,052 to £16,014 per annum, depending on the update and approval of extension periods. However, this is not the preferred option as it is deemed insufficient time for individuals to make alternative arrangements, particularly those who have been detained under the Mental Health Act 1983 and who might be too ill to make a decision. It would also impact on social worker time who may have to get involved in making arrangements for property or pets.
17. A proposed reduction in the number of days the Council pays for the storage and property and care of pets to a maximum of 7 days, with a possible extension of a further 7 days, would save an estimated range of £9,317 to £13,422 per annum, depending on the update and approval of extension periods. This is the preferred option, as it is felt to offer a suitable balance between the above two options. This would be still be in line with the Council's statutory responsibilities under Section 47 of the Care Act 2014.
18. Tendering for the provision of property and pets storage / protection will ensure best value and is required by procurement regulations due to the levels of spend.

## **Statutory and Policy Implications**

19. 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.

## **Data Protection and Information Governance**

20. In line with the Data Protection Act 2018 and General Data Protection Regulations (GDPR), a summary data privacy impact assessment (DPIA) has been completed.

## **Financial Implications**

21. The proposed policy change to funding 7 days, with a possible extension of a further 7 days, is estimated to save a range of £9,317 to £13,422 pa, depending on the update and approval of extension periods.
22. The proposed policy change to funding 2 days, with a possible extension of a further 2 days, is estimated to save a range of £15,052 to £16,014 pa, depending on the update and approval of extension periods.
23. Should there be no change to the policy, then no savings against current levels of expenditure are anticipated.

24. No additional implementation costs are envisaged as the associated work outlined in this report would be undertaken by existing staff.

### **Public Sector Equality Duty implications**

25. This proposal will impact on adults who have been assessed as eligible for social care support and their needs are met in accommodation, such as a care home, the adult has been admitted to hospital, and it appears to the Council that there is a danger of loss or damage to their movable property (including pets) because the adult is unable to protect or deal with the property, and no suitable arrangements have been or are being made.
26. The type of individuals who may be impacted includes:
- Adults aged 65+.
  - Adults aged 18-64 who have learning disabilities, physical disabilities, mental health needs, or those with Asperger's.
27. Most of the people affected by the policy are people with mental health problems, including those detained under the Mental Health Act 1983 or people admitted into hospital in an emergency.
28. An equality impact assessment has been developed to understand the impact of the proposals on those with protected characteristics. This is available as a background paper to this report.
29. Based on the numbers of people who called on the policy over 2017/18, as detailed below, the proposed policy change would impact on a minimal number of people:
- a. Pets were boarded for 43 people at an average of 48 days.
  - b. 8 properties were cleared and property put into storage.

### **Implications for Service Users**

30. The impact of the proposed policy changes outlined in paragraphs 7 to 10 above on these individuals would be that in future, rather than paying for costs for up to 28 / 56 days, the Council will only pay for costs up to either 7 or 2 days (unless extensions are agreed), to allow service users to make alternative arrangements. During this time, social workers would be expected to endeavour to resolve such situations at the earliest opportunity, without the need for the Council to incur additional costs.
31. If at the end of the agreed period of storage / boarding, the individual is unable to take responsibility for this, and there is nobody else available to do so, then the Council would continue to protect property and pets. However, individuals would be billed for any costs incurred beyond the agreed period. Should payment not be received, the Council would implement its agreed arrangements to recover such funds.
32. The proposed change in policy would also put more onus on those caring for affected service users to take on responsibility of pets / property whilst someone is in hospital or residential accommodation.

33. There is a potential that the change in policy may cause stress to people, and hinder their recovery in some cases.
34. This is a particular risk for those who may lack the mental capacity or people with mental health problems.
35. In mitigation:
  - a) if there are significant concerns regarding a service user's capacity to make a decision regarding their property (and / or pets) during the revised timescale, their assigned social worker must ensure a capacity assessment is undertaken. If there is a lack of capacity, consideration must be given to an application to the Court of Protection. If the person has either a Deputy or Attorney for their property or financial affairs, the social worker must liaise with this person to make arrangements for the property/pets. The person representing the interests of a person who lacks capacity will be responsible for arrangements for property and pets.
  - b) in order to reduce the risk of individuals not being able to identify and secure alternative arrangements within the revised timescales, as part of a wider promotional drive, social workers will be reminded to work with individuals assigned to them to help identify and set in place advance arrangements, as part of any assessment or review, for other individuals who could be called upon to intervene and look after pets / property / furniture and other personal items, if required, for example family, relatives, close friends or other representatives. This will include signposting service users to other sources of community support, including from the Voluntary and Community Sector, using tools such as Notts Help Yourself. The use of County Council secured facilities will also be explored.
  - c) if, after the agreed period of storage / boarding, the individual is unable to take responsibility for this, and there is nobody else available to do so, then the Council would continue to protect property and pets. However, it will bill the individual for any costs incurred beyond the agreed period. Should payment not be received, the Council would implement its agreed arrangements to recover such funds.
  - d) The assistance of the Nottinghamshire Enablement Service would be requested, to help identify and secure alternative arrangements (i.e. source local providers of pet care / storage care).
36. The proposal to tender the provision of property and pets storage and the proposed budget reduction will have no impact on service users or their families / circles of support.

## **RECOMMENDATION/S**

That the Committee:

- 1) approves the commencement of a six week consultation with service users, their carers and the public in relation to a revised Protection of Property and Funeral Arrangements Policy.

- 2) agrees to receive a report on the outcome of the consultation at its meeting on 10 December 2018, and any subsequent proposed changes to the policy as a result.
- 3) approves the tendering for the provision of property and pets storage in cases covered under Section 47 of the Care Act 2014.

**Paul McKay**

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### **Constitutional Comments (SLB 09/08/18)**

37. Adult Social Care and Public Health Committee is the appropriate body to consider the content of this report.

### **Financial Comments (ZB 09/08/2018)**

38. The financial implications are contained within paragraphs 21 to 24 of this 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.

- Protection of Property and Funeral Arrangements Policy - report to Adult Social Care and Health Committee on 6 January 2014.
- Protection of Property and Funeral Arrangements Policy - report to Policy Committee on 22 April 2015.
- Equality Impact Assessment – Protection of Property and Funeral Arrangements Policy.
- Protection of Property and Pets, and Funeral Arrangements Policy.

### **Electoral Division(s) and Member(s) Affected**

All.

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