

**REPORT OF THE CHAIR OF THE ADULT SOCIAL CARE AND HEALTH
COMMITTEE****PROTECTION OF PROPERTY AND PETS AND FUNERAL ARRANGEMENTS
POLICY****Purpose of the Report**

1. The purpose of the report is to seek approval for the updated Protection of Property and Pets and Funeral Arrangements Policy.

Information and Advice

2. A report was considered by the Adult Social Care Committee on 6th January 2014 regarding the Council's staff guidance on the protection of property and funeral arrangements. The report proposed three options for change in relation to how long the Council would pay for the storage of property and the care of pets. These were: (a) a maximum of 28 days with a possible extension of 28 days; a maximum of 14 days with a possible extension of 7 days; a maximum of 7 days with no extension. The Committee granted approval to consult service users, anyone caring for them, and the public about their preferred option. The aim of the changes was to reduce the cost to the Council of storing property and boarding pets.
3. Under the National Assistance Act 1948, the authority had a responsibility to arrange for the protection of property (including pets) of service users who were admitted to hospital or residential accommodation, where there was no-one willing or able to do so. Additionally, the Council had a duty to arrange a funeral for any person who died in residential accommodation, in the same situation.
4. If a person is likely to return to the same home, their accommodation is secured and the moveable property left inside. However, valuable items may be stored as a safety precaution and any pets are put into appropriate care. If the person has to vacate the property and give up their tenancy for any reason, all their property might be stored and any pets cared for. If the person is not likely to return home the property is cleared.
5. The current staff guidance states that storage is initially only for six weeks, after which time the service user should make alternative arrangements for the property to be moved or funded from another source. There is provision for further extensions beyond six weeks. Extensions beyond 12 weeks are agreed at group manager level. If the service user is not able or willing to fund the property remaining in storage and there are no alternative arrangements made or no grounds to extend the period of funding, the property is disposed of.

6. The Care Act 2014 has changed the legislation, but not the duty, to protect the property, including pets, of people who have no one else willing and able to do it (section 47 of the Act). A significant change is that the National Assistance Act referred to the “temporary protection of property”. The word “temporary” has been removed under the Care Act. Instead, the statutory guidance states, *“This duty on the local authority 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; whichever happens first”* (paragraph 10.88). Legal advice is that, *“the duty is therefore clear but there is flexibility in whether or not property is stored or just secured. In terms of pets, whilst this is incorporated under the remit of “protection of property” there is no definition of protection under the Act and therefore it must be given its every day meaning which would be to keep a pet safe and free from harm. If an animal were suffering from the effects of being boarded for a long period of time then this would not be protecting the animal; re-homing would be. Each case would need to be dealt with on its own merit”*. The Council is allowed to recover “reasonable costs” that they might incur from the adult whose property they are protecting.
7. Funerals are not mentioned in the Care Act, but come under section 46 of the Public Health (Control of Diseases) Act 1984.
8. Consultation on a change to the Council’s current guidance was carried out between May and September 2014; 48 people responded. All options resulted in a negative response from over 50% of respondents. Comments focussed on the additional stress that such limited time would have on vulnerable people. This is supported by the evidence that most of the people affected by the guidance are people with mental health problems. Respondents felt that making decisions of this kind in such a short space of time might, for example, hinder the person’s recovery, undermine their trust in professional staff, and deprive them of assets that they could not afford to replace. There was particular concern about the rehoming of pets and the impact that this might have if done very quickly.
9. Recovery of costs where a service user has sufficient funds to pay for storage was considered. However, the assessment of ability to pay, together with the administrative costs of recovery, would be expensive and likely to outweigh the costs incurred. The changes introduced by the Care Act also mean that the Council cannot dispose of the property of people who do not pay the cost of storage or boarding, or are too ill to make alternative arrangements and have no-one to do it for them. Based on legal advice the length of time that pets are boarded for could be limited, but this would have to be assessed on a case by case basis.
10. The option of allowing 28 days for the person to make alternative arrangements with an extension of 28 days, where necessary, was obviously preferred. It was also felt that the timescale should not apply until the person was well enough to make a decision. This option has been included in the proposed new Protection of Property and Pets and Funeral Arrangements Policy document, attached as **Appendix 1**, which will replace the former staff guidance.

Other Options Considered

11. The option of storing a person’s property for either seven days with no extension or 14 days with one extension of seven days were both considered. However, it was felt that this did not give enough time for someone who might, for example, have been detained under the Mental Health Act 1983 and who might be too ill to make a decision about their property.

Reason/s for Recommendation/s

12. The recommendation means that the Council will be working within the law and will ensure that people who are unable to pay for the storage of their property or are too ill to make a decision about alternative storage are protected.

Statutory and Policy Implications

13. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), 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. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

14. In 2013/2014 the costs relating to this duty were: funerals £6,601; forced entries £2,319; storage, including house clearances, £21,353; and care of pets, including vets fees, £51,547. Forced entries occur in situations where the police and a social worker attend a property to do an assessment under the Mental Health Act. If the person will not open the door, the police will break the door down to gain entry and the property then has to be boarded up. The total cost for 2013/2014 was therefore £81,820. The total paid back by service users and from the estates of deceased people for 2013/14 was £14,049. The majority of this was in contributions towards funeral costs, and it includes some costs recouped from the previous year because of delays with, for example, probate.

Implications for Service Users

15. The property of service users will be protected until they are able to make alternative arrangements for it. The Council will stress that 28 days is a time when a service user is expected to make alternative arrangements, not a period of free care. The property, including pets, of people who are unable to pay or who are too ill to make a decision will be protected in line with the Care Act 2014.

RECOMMENDATION/S

- 1) That the revised Protection of Property and Pets and Funeral Arrangements Policy, attached as **Appendix 1**, is approved.

Councillor Muriel Weisz
Chair of the Adult Social Care and Health Committee

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Constitutional Comments (SLB 07/03/15)

16. Policy Committee is the appropriate body to consider the content of this report.

Financial Comments (KAS 02/04/15)

17. The financial implications are contained within paragraph 14 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.

Protection of Property and Pets and Funeral Arrangements Policy (draft)

Electoral Division(s) and Member(s) Affected

All.