

**Policy Library Pro Forma**

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**Title:** Protection of Property and Pets, and Funeral Arrangements Policy

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| **Aim/Summary:** To outline the Council’s responsibility for the protection of property, including pets and for funeral arrangements. |

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| **Document type** (please choose one) | | | |
| Policy | X | Guidance |  |
| Strategy |  | Procedure |  |

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| **Approved by:** Policy Committee | **Version number:** 6 |
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| **Subject Areas** (choose all relevant) | | |  |  | |
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| **Please include any supporting documents** | |
| Updated forms, inventory form and letters to support this policy. | |
| **Review date** | **Amendments** |
| 28.08.2020 | Amended wording re funeral arrangements and district councils |
| 2019 | Content of the policy amended as a result of internal audit findings, Adult Social Care and Public Health Committee discussions and consultation with the general public. |
| 24.01.2017 | Links amended and Care Act Guidance numbers checked for accuracy |
| 22.4.2015 | Updated in line with the Care Act 2014 |
| 8.7.2013 | Details of Services Team updated, links checked, processes updated. |
| 21.06.2011 | Information included regarding the process for funeral arrangements in care homes. |
| 15.7.2010 | Time limit set for temporary accommodation of pets and property (see section 3.1). Decision number AC/2010/00091. Links added to updated forms. |
| 13.8.2008 | Updated funding amounts |



**Protection of Property and Pets, and Funeral Arrangements Policy**

**Context**

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:

**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

It appears to the Council that there is a danger of loss or damage to the moveable property because the adult is unable to protect or deal with the property, and no suitable arrangements have been or are being made. Moveable property includes pets.

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”*

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.

**Responsibilities of the Council**

In order to carry out its duties, the Council may:

* Make an inventory of any moveable property
* Ensure the security of the person’s property
* Store the property in line with paragraph 10.94 of the statutory guidance
* Terminate the person’s tenancy and arrange for the house to be cleared
* Manage the person’s estate as appropriate
* Place pets in temporary accommodation or arrange for their adoption
* Make funeral arrangements where necessary

Arrangements for carrying out these duties in the Council are made by:

The Business Support Service

Chief Executive’s Office

County Hall

Loughborough Road

West Bridgford

Nottingham

NG2 7QP

Tel: 0115 977 2951

The responsibility of the Council ceases upon death, therefore if a person dies whilst items (including pets) are still in storage or in the care of the Council, the liability for arrangements of the individual’s property transfers to the executor or personal representative dealing with the estate.

**Scope of this policy**

This policy applies to:

* People who need time to arrange for their property, including pets, to be protected because they have been admitted to residential accommodation following a social care assessment arranged by the Council, or they have been admitted to hospital, and no suitable arrangements have been or are being made.
* People who die in residential accommodation, where there is no other person willing or able to make arrangements for the funeral.

# Principles and commitments

* The Council will ensure that the Mental Capacity Act – Two Stage Test for Capacity episode in Mosaic is completed in situations where doubts are raised about the person’s ability to make decisions about their property or pets or their ability to give consent for Council staff to enter their property.
* Frontline staff will work with people 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 the person is unable to fulfil this responsibility themselves.
* Frontline staff will signpost people to other sources of community support, including from the Voluntary and Community Sector, using tools such as Notts Help Yourself. The Council will take “reasonable steps” to prevent or mitigate the loss of or damage to a person’s moveable property in situations where there is no-one else to do it.
* The assessment of the person’s ability to pay will be made by the social worker involved in the case at the point when the person goes into a care home or hospital.

**Process**

The Council will allow the person up to 28 days to make arrangements for the protection of property, including any pets. During this time the Council will pay any storage costs, cost of boarding a pet and the cost of returning the pet to its owner. The social worker must explain to the person what will happen to their property and/or pet and sign that they understand and agree to the arrangement.

In exceptional circumstances, up to a further 28 days will be allowed for arrangements to be made on a case by case basis and must be approved by the social worker’s Group Manager as the extension will be funded from their budget.

If no alternative arrangements have been made and there are no grounds to extend the period of funding then the property will be disposed of and the pet will be rehomed.

If the person remains in hospital or in a care home beyond 56 days, and no alternative arrangements have been made, they will become liable to pay the storage or boarding company for the continued storage or pet boarding.

Where the person is liable to pay, the contract becomes directly between the storage or boarding provider and the individual.

In terms of the care of pets, whilst this is incorporated under the remit of “protection of property” there is no definition of protection under the Care 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 is suffering from the effects of being boarded for a long period of time then this would not be protecting the animal and re-homing must be considered. If the RSPCA or a qualified vet decides that the pet is too ill or dangerous to be rehomed it will be humanely destroyed. Cases must be dealt with individually.

# Property Security

Under certain circumstances the Council is required to make a property secure, for example, where access has been gained by the police whilst serving a mental health warrant or the health of the person has suddenly deteriorated and access is required by medical services. The Council will arrange and pay for making the property secure.

If a Council officer has to subsequently enter the property they must, under Section 47 (4a) of the Care Act 2014:

* Obtain the consent of the adult concerned, or where the adult lacks capacity to give consent, the consent of the person authorised under the Mental Capacity Act 2005 to give it on their behalf.
* Be satisfied that exercising this power would be in the adult’s best interests, in situations where the adult lacks the capacity to give consent and there is no one authorised under the Mental Capacity Act 2005 to give consent on their behalf.

# House Clearances

House clearances may be undertaken when a final decision has been made to terminate a tenancy, and where there is no one else to do it. This involves removing the person’s property from the house and will be arranged and paid for by the Council. Funds received from any items sold will be used to reimburse the Council for costs incurred. Any remaining funds will go to the individual. A Mental Capacity Act – Two Stage Test for Capacity episode in Mosaic must be completed before this decision is made. The social worker must complete the appropriate form before a house clearance is carried out.

# Mental Capacity

If there are significant concerns regarding a person’s capacity to make a decision regarding his or her property and pets, the social worker must ensure that a consideration of capacity is made.

# In circumstances where the capacity assessment indicates a wider lack of capacity with regard to financial decisions and this is felt to be long-standing, consideration must be given to referring the case to the Court of Protection and deputyship. If the person is already under the care of the deputyship service or has an established Lasting Power of Attorney, 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.

# Funerals

The County Council is responsible for the funeral arrangements for people funded by Nottingham City Council in care homes within the County boundary. It is also responsible for arranging a funeral for people in Nottinghamshire who are funding their own care in a residential or nursing home or supported living complex if there is no-one able to arrange the funeral on their behalf. The cost of the funeral is claimed back from the estate of the deceased person.

The Council, will as far as possible, respect any known wishes of the deceased person with regard to the funeral service and other arrangements.

* A private funeral will be arranged in accordance with the deceased person’s wishes if the person has left written instructions and there are sufficient funds in the person’s estate to pay for one.
* In all other situations the appointed funeral director will provide a dignified contract funeral with a coffin taken to the crematorium or cemetery in a hearse attended by bearers. A cremation will be arranged, with the cremated remains being subsequently scattered in the gardens of remembrance, unless it is established that the religion of the deceased person forbids cremation or the deceased expressed a wish, either verbally or written, to be buried. The cremated remains will be given to a friend or family member, if requested. If the person was known to be religious, arrangements will be made for a minister of religion or a religious representative of the faith of the deceased person to conduct a service. If the person was not known to be religious a celebrant will be arranged to conduct a civil funeral.
* If there are no arrangements for flowers, a coffin spray at a cost of approximately £30 should be included.

The Council will claim the cost, or a contribution towards the cost, of the funeral back from the deceased person’s estate, whether the funeral is a private or contract arrangement. Payment of funeral expenses takes precedent over all other debts of the estate or beneficiaries to the estate.

In situations where the Council is not responsible for the funeral arrangements any relatives or close friends of the deceased person will be directed to <https://www.gov.uk/browse/benefits/bereavement> or <https://www.gov.uk/funeral-payments>

The Council **does not** get involved in funeral arrangements in the following circumstances:

* If a person dies whilst living in their own home it is the responsibility of the Environmental Health Department within the appropriate District, Borough or City Council to make the necessary arrangements.
* If a person dies in hospital (NHS) prior to formal admission to a ward, it is the responsibility of the District Council to make the necessary arrangements.
* If a person dies in hospital (NHS) following admission, it is the responsibility of the Hospital Bereavement Centre where the person died to make the necessary arrangements, unless the person was under the Court of Protection, in which case, the Council is responsible for the arrangements.
* If the person dies in the Queen’s Medical Centre it is the responsibility of Nottingham City Council Environmental Health Department.

For more information, please read and use the:

* **[New guidance on this service](http://home.nottscc.gov.uk/working/policies-performance/policy/policy-library/protection-of-property-and-pets-and-funeral-arrangements-guidance)**
* **[New Protection of Pets Form](http://home.nottscc.gov.uk/working/departments/asch/asch-documents/pets-form)**
* [**New Protection of Property Form**](http://home.nottscc.gov.uk/working/departments/asch/asch-documents/servicestenancy1)
* [**New Property Inventory Form**](http://home.nottscc.gov.uk/working/departments/asch/asch-documents/servicesproperty-inventory1)