

# **PROCEDURE NOTES**

**Updated 2016**

Appointeeship and Deputyship Scheme within  
Appointee and Deputyship Management  
London Borough of Havering

***Revised 2018***

## **MENTAL CAPACITY ACT 2005**

In October 2007 the Mental Capacity Act came onto the statute books of England and Wales.

The act changed the way decisions are made regarding the Health, Welfare and Finances of clients who lack capacity.

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## **PROCEDURE NOTE NO. 1**

### **REFERRAL OF A POTENTIAL CASE**

#### **Introduction**

Clients who are mentally incapable and have no suitable “relative/friend”, willing to act for them are the main group for whom the department should act. The Authority will become involved as a last resort.

#### **Action**

In the first instance the Care Manager will contact the Appointee and Deputyship Team (ADT), to notify them they might have a client that requires support with their financial affairs. ADT will send a referral form **ADT1** and Court of Protection Mental Capacity form **COP3** to the Care Manager for completion. The ADT1 will give case history of the client, giving history, family details, financial details etc. It is important that the Care Manager fully completes the form ADT1 with as much information as available correctly. Failure to do this will only result in delays in lodging the claim with the DWP. It is essential that the National Insurance Number is stated.

The completed forms will be sent to ADT who will then verify the application.

ADT will commence the process once the client criteria are met.

#### **Referral from the Office of the Public Guardian (OPG)**

If a Deputy or Lasting Power of Attorney has been deemed unsuitable then the OPG may ask ADT if it would be willing to take over as a Deputy.

#### **The process is then:**

- Make Adult Safeguarding aware.
- Submit COP4 to OPG confirming ADT are willing to take the case and why ADT would be suitable, quoting some of ADT’s good practice cases.
- The OPG will then apply to the Court of Protection stating ADT are willing if required with ADT’s COP4 as support.
- Subsequently if the Court agrees that the OPG has enough evidence to discharge the Deputy or Lasting Power of Attorney, a Court Order will direct ADT to submit a COP9 stating that ADT want to be appointed as Deputy. Unless there is a body of evidence from a Safeguarding investigation to support the OPG it’s sufficient to say ADT do not have any concerns and are applying because the OPG asked us to.

## **PROCEDURE NOTE NO. 2**

### **SETTING UP THE FILE & RECORD KEEPING**

Each client will have a separate folder within the ADT Electronic Social Care Records.

All documents will be scanned and saved in sub folders as appropriate such as:

- Court of Protection
- DWP
- Invoices
- OPG
- Various Company Names
- Property

There will also be a paper folder broken down into the following sections:

- File Cover Sheet (see appendix 2)
- Referral
- Deputyship Order
- Other Legal Documents

Appointee and Deputyship needs to be entered as an involvement with roles as both Appointee and Deputy and Financial Contact. The client's details need to be entered on the ADT Access database.

### **RECEIPT OF POST**

Appointee and Deputyship Assistant to open post, date stamp, and pass to Appointee and Deputyship Manager for inspection to familiarise with case activity.

All post apart from invoices (which are not scanned until paid) to be scanned and marked with highlighter dot at the top right hand corner then all post distributed to allocated Finance Officer.

### **RECEIPT OF DOCUMENTS**

If any documents are hand delivered to the office or collected from an individual a receipt must be issued and the receipt signed by both the person handing over the documents and the receiving officer.

A record of all personal effects, including all bank accounts and documentation, must be recorded when received. This record must be maintained on a timely basis and updated when there are any changes.

## **PROCEDURE NOTE NO.3**

### **OPENING A BANK ACCOUNT**

A NatWest account opening form will be completed. This form must be signed by two signatories as on ADT's mandate with the bank and submitted with a copy of the COP3 and a BF56 application for Appointeeship. It can be sent to the account opening team at NatWest Bank Plc, 2<sup>nd</sup> Floor, 280 Bishopsgate, London EC2M 4RB via the internal courier at the branch located at 10 South Street, Romford. When the bank responds and confirms an account has been created. The account number must be recorded on the ADT Access database.

At this stage, the BF56 application for Appointeeship must be submitted to the DWP as on **Procedure Note 4**.

**Also**, if an application for Deputyship is appropriate this can be submitted as in **Procedure Note 5**.

In order to access the account and make transactions via RBS Bankline a Third Party Mandate form must be completed and signed by two signatories. This form is obtained on the RBS webpage. It can be sent to the RBS Bankline Team, 36 St Andrews Square Edinburgh EH2 2YB again via the local Nat West branch.

When RBS Bankline have made the account available on their system, an email will be sent to [clientfinance@havering.gov.uk](mailto:clientfinance@havering.gov.uk) as confirmation. However, the account will have a default name LBH and part of the client name. It may not be clear which client this refers to and a search on the ADT Access database using the account number will be needed. The client's identity must be correctly verified. The account name must now be amended on the Bankline system as an 'Alias' to the client's **full name in block letters**.

## **PROCEDURE NOTE NO.4**

### **APPLYING TO THE DWP FOR APPOINTEESHIP**

The council will be acting in a corporate capacity and is called a Corporate Acting Body. Appointeeship only allows for control of the client's social security benefits. It does not give legal rights to bank or building society accounts held by them. It is expensive to administer and there are no legal provisions by which the client can be charged for the work undertaken.

The BF56 form will be sent to the DWP Offices for State Pensions, DLA/AA and Job Centre plus, with a copy of the COP3. The BF56 must state the ADT Corporate ID.

If the capital assets including property are £2,000 or more or there are safeguarding issues, an application will also be made to be appointed as Court of Protection Deputy for Property and Affairs.

### **APPOINTEESHIP GRANTED AND BENEFITS RECEIVED**

The period for which benefits have been backdated will be checked. In some cases, the benefits could be backdated for a number of years.

Regular checks should be made at least monthly or whenever a client's bank account is viewed, to ensure the benefits are being received and any changes to client circumstances, which may affect benefit payments, such as change of address entry into hospital and capital changes, should be advised to the DWP as soon as possible.

Advice may be sought from the Welfare Rights Advisers in London Borough of Havering (LBH) Financial Assessment and Benefits Team.

## **PROCEDURE NOTE NO. 5**

### **APPLICATION FOR DEPUTYSHIP TO THE COURT OF PROTECTION**

The application process cannot start until receipt of the form (**COP3**) which is an official Court document, and must be completed by a suitably qualified practitioner such as a Social Worker. There is a time limit of 3 months on each **COP3** once it has been completed and signed by the relevant person, applications must be made to the Court within this period.

Once ADT are satisfied it is a case appropriate, and suitable for Deputyship, they will then start the process of applying for deputyship. Although it will cost the client £400 for the application, ADT will not have access to their funds for several weeks as they will not normally have accumulated this money until benefit payments have commenced.

Therefore, the fee will be paid using the ADT Court Account, stating both on the application header letter and on the 1st page of the COP1 form 'Ministry of Justice Payment by Account Ref PBA0087121' and an invoice raised to the client using One Oracle to recoup the money when available.

The application is made to the Court of Protection on form COP1 and COP1A in duplicate, giving as much information as possible, accompanied by the COP3. The ADT Court Account reference number must be quoted on the application and the covering letter.

The Court will respond and instruct ADT to take the following actions within 14 days:

- Serve notice of the application to the client in person in the presence of a third party such as a Care Home Staff Member using form **COP14**.
- A copy of the **COP14** and a **COP5** which the client can submit to the Court if they want to object or be a party to the proceedings must be left with the client. If in a Care Home, the admin office should secure the forms in the client's file.
- Submit confirmation of the notice served to the Court on form **COP21A** within 7 days of the notice being given.
- Serve notice, normally by 1<sup>st</sup> class post to any respondents mentioned at section 4 of the form **COP1** using form **COP15** accompanied by form **COP5**.
- Submit confirmation of the notice served to the Court on form **COP21B** within 7 days of the notice being given. The forms can be accessed on the **webpage <http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder>**.

If ADT are successful in the application, the Court will send certified Orders appointing LBH as Deputy with instructions to take the following actions within 14 days:

- Serve notice of the appointment as Deputy to the client in person in the presence of a third party such as a Care Home Staff Member using form **COP14**.
- A copy of the **COP14** is left with the client. If in a Care Home, the admin office should secure the forms in the client's file.





## **PROCEDURE NOTE NO. 6**

### **APPOINTEESHIPS TRANSFERRING TO DEPUTYSHIPS**

#### **Introduction**

Whilst ADT are allowed to manage client's finances under Appointeeship, this does not give it the right to manage any savings that accrue. Therefore, to protect both the client and the Council it is important that ADT ensure that it is open to scrutiny.

#### **Action**

Once an Appointeeship client's capital exceeds £1,999, they will then be treated as a Deputyship client.

ADT will follow **procedure note 5** for application to the Court of Protection to act in a Deputyship capacity.

**PROCEDURE NOTE NO. 7**

**DEPUTY’S RESPONSIBILITIES – CHECKLIST**

- Please refer to Appendix 5 Office of the Public Guardian Deputy Standards.
- Reference should be made to the latest update of guidance from the Office of the Public Guardian on their website.  
<https://www.gov.uk/government/publications/office-of-the-public-guardian-deputy-standards>

## **PROCEDURE NOTE NO. 8**

### **INFORMING RELEVANT AUTHORITIES/INSTITUTIONS & KEEPING ACCOUNTS**

#### **Informing relevant Authorities/Institutions**

Once Deputyship has been granted for a client in the community, ADT need to notify all utility companies (gas, electricity, water etc) that services are received from, along with anyone else who might deal with the client's financial affairs or property.

Social workers or Carers that deal with the client on a day-to-day basis will especially need to be kept informed of the Deputyship situation. If there are Safeguarding or change in care needs concerns identified then consultation must be made with the allocated care manager. If there is no allocated care manager, then a request for allocation should be made to [adultsocialcare@havering.gov.uk](mailto:adultsocialcare@havering.gov.uk)

If there are Safeguarding concerns, an alert form must be submitted to LBH Safeguarding and a copy of the form is provided at **appendix 6**. More guidance on safeguarding is available here <https://www3.havering.gov.uk/Pages/Category/Adult-protection>.

#### **Keeping accounts**

One of the ADT main duties as a deputy is to provide the Court with an account annually on how the team have dealt with the money they have received for the client, and also how they have spent that money on the client's behalf. The OPG will send out the Annual Forms of Enquiry a few weeks before the account is due to be submitted.

The OPG understands that all accounts cannot be submitted immediately, but expects them to be submitted within a reasonable time span.

Occasionally customers may request copies of OPG statements. In such cases the Head of Business Management will to decide if the reports submitted to the OPG can be released to the representative of the client.

If it is decided that the OPG reports cannot be released then Senior Management will make a decision on whether the spreadsheets maintained by Client Finance can be issued.

## **PROCEDURE NOTE NO. 9**

### **CLIENT'S INCOME AND EXPENDITURE**

#### **State Benefits**

As with Appointeeship clients it is the ADT responsibility to claim any benefits the client is entitled to. Once the Court Order appointing LBH as the client's Deputy is received, it is up to the Team to notify the paying DWP of this. The Team will endeavour to claim all Benefits that the Client is entitled to. However, there may be circumstances where claims may be delayed.

Major changes in a client's circumstances like the sale of a property, thus increasing savings, must be notified to the DWP immediately.

#### **Income Tax**

It is the responsibility of the Deputy to ensure that a tax return is completed annually for the client. If income tax is due to be paid, it will come from the client's income.

If there any issues relating to the completion of the tax return which the Deputy does not have the knowledge to deal with then professional tax advice will be obtained from a Qualified Tax Adviser.

#### **Invoices**

Each invoice received on behalf of a client must be stamped with the current date upon receipt. It is essential that all invoices are paid within 30 days to adhere to the Council's procedures as this would be deemed as "best practice".

The team must ensure that the client's current bank account or savings account balance is checked before any invoice is passed for payment, they must also check that the invoice is not a duplicate.

If the client does not have sufficient funds to pay the invoice the team must immediately contact the Invoice originator to make payment arrangements or request write off.

#### **ADT should check the following:**

- The demand is properly headed with a business name, address, telephone number and VAT registration details.
- The invoice is dated.
- It relates to the relevant service user.
- That the goods or services have been received in full.
- It gives details on how to pay.
- It is arithmetically correct.
- Discuss any cases of doubt on validity (e.g. Forgery).

If the invoice is to be disputed the team must clearly mark the invoice 'In Dispute' in red letters. Notification must be sent to the issuer of the invoice.

When paying the invoice it must be stamped in **Red Ink** with the payment authorisation stamp. The person completing the payment must enter the payment date, amount, cheque number (if applicable) and sign as raised by.

The Person authorising the payment must check that the amounts are correct and that any cheque is being paid to the correct beneficiary. They must then sign as Authorised by.

Once the invoice is paid it should be passed for scanning into the client's electronic folder.

## **BACS Payments**

Payment by BACS should be the default method and cheques should only be used if BACS is not possible. The payee's bank account details should be shown on the invoice, a headed letter or on a company email. In cases where a private individual is the payee e.g. the client or a relative\*, a copy of their bank statement should be provided as confirmation of their bank details.

- Payments should only be made to a third party after sufficient scrutiny has been carried out to verify the status of the individual, the relationship to the client and the purpose of the payment.
- Sufficient scrutiny includes verification of at least three months bank statements and suitable ID checks i.e. sight of two forms of suitable ID typically a passport or driving licence (which should be a photo ID) and current utility bill. (Nothing from Havering Council should be accepted as proof of address because it doesn't verify the address).

## **PROCEDURE NOTE NO. 10**

### **INVESTMENT OF FUNDS**

Any surplus funds should be invested as far as practical as the client would have done and to this end LBH Corporate Banking and Treasury Manager.

If any monies are to be invested at the Court Funds Office, the team should refer to forms and procedures <https://www.gov.uk/pay-court-funds-office>.

## **PROCEDURE NOTE NO. 11**

### **Gifts**

The client may want to give presents or money to either close family members, hospital staff or charities, or other individuals or organisations.

Under the Extended Powers orders received from the Court, the Deputy has discretion over Gifts.

Any request for payment must be documented and approved by the Service Manager.

The person may wish to make gifts to the staff acting as their Deputy or Carer. Any such request must be considered in accordance with the Council's protocol on Gifts and Hospitality and the normal procedure should be that such **offers are declined**.

When making gifts, ensure tax and all other liabilities are met and if this is unclear, seek professional advice. ADT **must** be aware that a gift does not deprive the client of assets which could then be viewed by the Local Authority as deprivation to gain access to public funds when assessing Care Fees.

## **PROCEDURE NOTE NO. 12**

### **PERSONAL EXPENSES FOR CLIENTS**

#### **Guidance on Use of Personal Allowance**

Staff should allow and encourage clients to manage their personal allowance. In the majority of cases a client will not have the capacity to decide on how to spend their monies. Staff from Social Services have a duty to ensure a client receives best value and protects them from all possible abuse.

Clients should be able to spend their monies on whatever they wish, unless a decision they take could affect their health/wellbeing. If a client cannot make a choice, all parties should be engaged by Social Services to decide the best course of action.

Under the Mental Capacity Act, ADT have to assume that everyone has capacity to make decisions. If ADT feel that a client is making unreasonable demands the agreed procedures for determining capacity must be followed.

Staff should ensure that a Residential Home does not deduct money from clients for items that should be covered by fees for the residential placement. If a Home administers money on behalf of the client they have a duty to ensure they consult with the client and Social Services staff on expenditure.

Residential Homes must also keep accurate and up to date records of income and expenditure for each individual client. Homes should keep a separate record for each client. These should be made available for inspection at any time by ADT.

ADT will ensure that each client has access to the maximum personal allowance they are entitled to. There are numerous occasions when the client is entitled to receive more than the standard allowance.

#### **A. Areas that Clients can fund 100% from their own income:**

1. Personal clothing and toiletries
2. Games, magazines, books, sweets, cigarettes etc. for their own personal use of consumption.
3. Club activities and adult education classes.
4. Their own personal costs of outings with a third party (e.g. family, friends, clubs, day centres).
5. Decorations and furniture above the minimum standard. Care Homes should provide a basic decoration to a reasonable standard. Care Homes must ensure that interior decoration is kept to a high standard.
6. Carpets for bedrooms should be provided by the Home, any additions above the basic standard (i.e. Ornamental rugs) will be paid for by the client.



7. Bedding should be provided by the Home to a suitable standard. If a client is to remain in care for a long term, they may wish to purchase individual bedding. Homes should ensure that all bedding purchased by a client must be marked with a client's name.
8. Care Homes will provide basic curtaining for the individuals room. Anything above this standard (i.e. drapes, vertical blinds etc) will be paid for by the client.
9. Specialist/fashionable aids and adaptations for individual use that would otherwise not be available, or above the basic standard. This can include specialist furniture (i.e. beds) that would not be provided through the Health Service.
10. Incontinence pads that are above the basic standard available for the Authority, and which enhance the comfort and dignity of the client.
11. Own holiday costs incurred with a third party, e.g. family, clubs etc.
12. Additional transport costs incurred in a pursuit of social and educational activities, and any other activities/appointments that are for the client's own welfare (e.g. attendance at medical appointments).
13. Gifts for family and friends – a reasonable limit must be applied to such payments. ADT have a duty to ensure that payments would not lead to deprivation of assets.

### **B. Weekly/Planned Expenditure**

1. Once a client is placed into Care Home, the care manager should sit down with the key worker, Home manager and client to agree what monies should be available each week. Care manager will then contact ADT with written record of agreed amount.
2. Expenditure levels should be covered at the annual review. Only in exceptional cases should information on assets be withheld from the client.
3. For unplanned ad/hoc payments/expenditure agreed policy must be adhered to.

### **Clients in Care Homes**

Good liaison with the Care Home is vital in these cases.

The individual Home will, either at the time of entry or at a later stage, fund personal expenses for their residents from their petty cash fund.

This will be determined after consultation with ADT (see notes above). Claims for the amounts spent will be made on an **“as and when basis”**.

### **Action**

Requests for payment will be received from each Home. These requests will be submitted in writing or by email.

The Homes are expected to keep a full record of expenditure and receipts, and ADT should be given access to records by the Homes.

ADT should check if payment for more than one item is requested and that the arithmetical calculation is correct and that the purchase seems reasonable for the client. If the team considers the request to be unreasonable then contact must be made with Social Work Teams, and must be asked to investigate.

ADT should also check that the resident is still in the Home and is **not deceased**.

Payment should be made, unless the amount claimed is disputed, within two weeks of receipt of the claim.

## **Clients in the Community**

After consultation with Client's Social Worker/ Support Worker a weekly amount of cash to be paid to the client for personal use is agreed. The Team will ensure that monies are available to the client.

An account will be opened up with Nationwide Building Society in Romford who will arrange for a rubber signature stamp if the client is incapable of signing.

A standing Order for the agreed personal allowance will be set up. The client will attend the Nationwide branch in Romford by default with a carer if needed as the staff are familiar with ADT's clients.

However, it may be more appropriate to attend another branch and it will be necessary to liaise with the manager.

As a backup to this arrangement, an open credit facility will be set up by default at the national Westminster branch in Romford with an agreed form of identification (ID).

A cheque book will be held for each client which in emergency can be issued for cash with respect to the client and will be withdrawn on the clients Deputyship account on production of the agreed ID.

When the cheque is given to the client or carer a cash advance form ADT6 must be signed by them. The open credit mandate is specific to a branch and if more appropriate, can apply to an alternative if more convenient for the client.

## **PROCEDURE NOTE NO. 13**

### **FURNITURE, PERSONAL BELONGINGS, & PROPERTY**

#### **Houses & Land**

Although on admission to Hospital or a Care Home it will have been the Care Manager's responsibility in accordance with the Care Act 2014, to ensure the security of a client's moveable property (this usually means it's also necessary to secure the client's home), when a Court Order is obtained it is now the Deputy's responsibility to keep all the client's property secure and in a reasonable state of repair.

#### **Other responsibilities for Deputy's associated with Houses & Land includes:**

- Ensuring the property is insured to cover rebuilding costs.
- Ensuring the house contents are fully insured (see below).
- Safe keeping of the deeds of the house and any other important documents.
- Collecting rents and managing property if there are tenants in the property. If the Team believes it's necessary to renew an existing tenancy or let a property, they must first get authorisation from the Court.
- Council tax and other utility bills are paid by due dates after any allowances available have been claimed.
- Property is maintained in a reasonable state of repair and prompt action is taken to rectify any problems that may lead to the deterioration of the property or to its external and internal security (e.g. doors, windows, fences, walls etc. are secure).

#### **Searching a Property, Furniture & Personal Belongings**

In line with the Councils procedures on Burials and Protection of Property, on an initial visit to any property (before an inventory is taken and securities/valuables are recovered) a **minimum of 2 people** must visit the property.

To help in the process of ensuring the client's personal belongings are fully insured, an inventory of the contents of the client's home, and other personal items should be created.

- Items that may need a specialist valuation and insurance cover should be noted.
- Where there are items of jewellery staff must write the description of the items as coloured metal, white stone, etc. and hallmarks must be noted.

- If certain items in the client's home could be a physical risk to them, consideration to either getting rid of them or placing them in storage should be given.
- As always (in this scenario) the client's wishes need to be taken into account.
- If a client moves permanently into hospital, or a nursing or residential home, their belongings will be looked after.
- The Team should consult the client's doctor to find out if there is any likelihood of the client returning home.
- The client may also want to keep some items of special significance or sentimental value.
- The team is required to ascertain if the items can stay at the current address, be sent to a new address, or whether they need to be placed in storage (if Items are stored, the client pays the cost of Storage).
- It is important that before the Team sell or get rid of any item, they follow the steps below:
  - a) Get the client's opinion if they are capable of expressing it.
  - b) Discuss the matter with any Next of Kin.
  - c) Use an IMCA.

### **Selling Property (Houses, Flats, Land etc.)**

The question of selling a client's property can cause concern to the client and their family. The team must ensure that they have discussed any sale with all relevant parties before proceeding.

Although it may be possible to avoid selling the client's home if there are other substantial assets which will meet the client's needs but in practice a property left empty for any length of time or let through an agent is a strain on staff resources and should be avoided. Therefore, Deferred Payments for residential care are not practical.

If a relative of the client wishes to buy the property at the market price; the Court dictates that an affidavit of value must be signed before such a sale can take place.

Under the Extended Powers Orders, the Team are given full discretion over any property sale.

#### **In order to place a property on the market the team must ensure that:**

- The client is the only owner.

- The client is already in a nursing or care home when the application is made.
- The client is not likely to return home.

The Team must ensure that they obtain at **least two written valuations** from separate Estate Agents located in the vicinity of the property. If a property is to be placed at an Auction a guide price must be set to ensure that the client gets best value.

Any sale of a property by a Deputy should be under the instruction of a solicitor; the solicitor is given guidance by the court as to the fees.

## **Joint Owners**

If the property is jointly owned, consent must be obtained from the joint owner. A deed of Trustee application on a COP12 must be submitted to the Court with a fee of £400.

If ADT is the Deputy for both owners, then a COP12 must be submitted for each.

## **Buying a Property**

The normal Court Order does not allow the Deputy to buy a property and permission must be sought from the Court by submitting a COP1 in duplicate and COP3. This will incur a fee of £400.

## **PROCEDURE NOTE NO. 14**

### **LEGAL MATTERS**

#### **Marriage & Divorce**

As there are legal and financial implications (marriage will usually override any existing will) when a client gets married, the Team need to notify the OPG as soon as they become aware of the planned marriage. The Team must liaise with the client's social worker if the client decides to get married – Discussions must take place with all involved parties as to who manages the client's finances.

The Team also need to notify the OPG of the financial implications of a client facing divorce. For example:

- Whether there is a marriage settlement.
- The interest of the client's husband or wife in the client's money and property.
- Details of the income and property involved.
- Whether the client has made a will.
- What arrangements will be made for any children?

#### **Action in the Criminal Courts**

If a client is charged with a criminal offence, the Team should inform the OPG of the charge, and ensure a solicitor in the criminal court legally represents the client.

#### **Action in the Civil Courts**

The client is considered legally to be incapable of bringing or defending legal proceedings in the civil courts by the Court.

If the client is ever sued or sues someone else, a person known as the client's 'litigation friend' or 'guardian ad litem' is appointed to act on the client's behalf.

If ADT want to act in this role, being the client's Deputy does not automatically grant them this right. The Team will need to get permission from the Court and a Senior Manager within Social Services. The Team must also discuss the matter with Legal.

The Court will usually require the litigation friend to get the opinion of a Barrister, and if the client is entitled to legal aid, the litigation friend must make a claim for them.

If the client is awarded any money as a result of a civil court case, it will usually be paid into Court. Neither the client nor the litigation friend has the right to receive it.

If an action is likely to be settled before coming to court, the Court of Protection will need to approve the terms of the settlement before it is put before the court judge.

## **The Client's Will**

If the team find out that the client has made a will or an addition to the will (called a codicil) before becoming involved with the Court, then they will need to notify the Court straight away.

The OPG and the Court require wills to be kept in a safe place, such as a bank or solicitor's office. Whoever holds the will has to sign a form of receipt and make an undertaking to keep it safe.

If the client wants to make a will or amend an existing will, while the team are appointed as their Deputy, the Court require a doctor to provide evidence that the client is capable of making and understanding a will, and what its effect will be.

If the doctor confirms, the client is said to have 'testamentary capacity', the Court will then agree that the client can instruct a solicitor to make a will.

The solicitor also must be satisfied that the client has testamentary capacity when taking instructions to execute a will. If it is possible, the client's doctor should be present to witness the will.

The team must send a copy of the will to the Court, who will then instruct the team as to who should keep the original copy of the will.

If the client is not found to be capable of making and understanding a will, it may still be possible to make what is called a statutory will on their behalf.

A Solicitor should be commissioned on behalf of the client as a separate Court Order is required.

If on the death of the client, there is no Will or next of kin, and the assets are worth in excess of £500, a referral must be made to Bona Vacante

See <https://www.gov.uk/guidance/refer-a-deceased-persons-estate-to-the-treasury-solicitor>

**PROCEDURE NOTE NO. 15**

**CHANGES FOR THE CLIENT ONCE DEPUTYSHIP GRANTED**

**Client's signature**

Once ADT have been appointed, the client's signature will no longer be valid for agreements, contracts, documents & cheques for bank accounts.

**Driving licence**

The client may still be able to keep their driving licence or be able to get one, once Deputyship has been granted to the team.

It is the responsibility of the team to inform the DVLA about the Deputyship, with the client unable to drive until the DVLA have confirmed that they may do so.



## **PROCEDURE NOTE NO. 16**

### **WHEN DEPUTYSHIP DUTIES END**

There are several circumstances which can end the role of a Deputy.

#### **Recovery of the Client**

If the client's mental state improves to the point, where they are capable of handling their own financial affairs, the client needs to apply to the Court for an order to allow them to manage their own financial affairs.

The Court will require medical evidence that the client is no longer mentally incapable (as defined in the Mental Health Act 2005).

If the client cannot produce the evidence, the team need to provide contact details to the Court of a doctor who can produce the evidence on the client's behalf.

#### **Death of the Client**

When a client dies the Deputyship of that client's affairs terminates.

The Office of the Public Guardian (OPG) need to know the executor named in the client's will, or who has been appointed legal personal representative if the client did not make a will.

If neither are known then the nearest NEXT of Kin details should be given. The Court does charge a fee for ending their involvement with the client's affairs; this should be paid from the estate.

#### **Discharge of the Deputy**

A Deputy may be discharged if the Court believes they have not been carrying out their duties correctly, or they have neglected the client's interests.

## **PROCEDURE NOTE NO. 17**

### **DEATH OF A CLIENT**

#### **Introduction**

When a client dies the Deputyship of that client's affairs terminates (see above).

The Court need to know the executor named in the client's will, or who has been appointed legal personal representative if the client did not make a will.

#### **Action**

The file should be passed to our Business Administration Support who should carry out the following action - please ensure that all information needed which is not recorded on Access is passed on to BA Support, eg. NOK and/or Executor details and place of death.

#### **On notification of death, if appropriate notify the following internal contacts:**

- Financial Assessment and Benefits Team, giving details of the Executor or Next of Kin
- Care Management.
- Commissioning Brokerage.

#### **Immediately advise the following external contacts:**

- Benefits Agency.
- OPG/Court of Protection.
- Next of Kin.
- National Westminster Bank Probate Office. Make sure that details are recorded on AIS.
- Any further correspondence or invoices should be forwarded to the Executor or Next of Kin or if there are none, sent directly to National Westminster bank Probate
- Payment of the funeral bill or transfer of any funds to the executor will be the responsibility of National Westminster Probate

On completion of all action pass the file to the Appointee and Deputyship Manager, who will provide all information, documents and property as is required by the Executor to administer the estate



**If there is no Will, Next of Kin or prepaid funeral plan, then ADT may continue to administer and arrange the funeral as is the Local Authority's statutory duty in accordance with Section 46 Public Health (Control of Diseases) Act 1984 Please refer to separate procedures.**

Please refer to Burials Procedures.



## **PROCEDURE NOTE NO. 18**

### **COMPLAINTS & APPEALS**

Both the client and the Team have the right to complain or appeal about decisions and the service they receive from either the OPG or the Court of Protection:

#### **Objections by the Client**

The court expects the Team to consult regularly with the client on how they would like their money to be spent.

The client has the right to object to what is being done on their behalf, and should be informed of this right by the Deputy.

#### **Appeals**

If the Team disagree with any decision made by the OPG or the Court, the OPG can look at the decision again.

#### **Complaints**

If the client has a complaint about the way their financial affairs are being handled, they (or someone on their behalf) should write to the OPG voicing their concerns.

The OPG will investigate any complaints and take any action needed to deal with the complaint.

A complaint may also be made in accordance with the Council's complaints procedure

**PROCEDURE NOTE NO. 19**

**INTERNET BANKING SYSTEM**

**Please refer to the RBS Bankline online banking procedures**

## **PROCEDURE NOTE NO. 20**

### **AUDITING ACCOUNTS**

The Service Manager is required to test check two client accounts every six months.

#### **The Check will include the following:**

- Amount of Monies received – Benefits etc.
- Monies paid out – That every payment has a paper trail and has proper segregation of duties.

## **PROCEDURE NOTE NO. 21**

### **FEES AND CHARGES**

There is no charge for Appointeeship but there is for Deputyship.

The Local Authority Deputy is entitled to receive remuneration for work undertaken under Rule 43 of the Court of Protection Rules 2011.(see schedule for fees at appendix 4). It's vital for the continued operation of the team that these charges are raised and paid in a timely fashion.

This is complex as clients are charged at different times according to when the order starts and on its anniversary.

An excel spreadsheet must be maintained to facilitate the manager's income projection on the team budget.

#### **Invoices must be raised using One Oracle as follows:**

- £400.00 on making the application to recoup the fee.
- £745.00 on the award of the Court Order plus a property charge of £270 if appropriate.
- £775.00 or 3.5% of the capital if less than £16k on the first anniversary of the Court Order plus £216.00 Account Charge if an OPG report is prepared and Property charge of £300.00 if appropriate.
- £650.00 in subsequent years or 3.5% of the capital if less than £16k on the anniversary of the Court Order plus £216.00 Account Charge if an OPG report is prepared and Property charge of £300.00 if appropriate.

The Public Guardian will also levy fees of £125 setup costs plus supervision fees, depending on the supervision level. Reference should be made to the Court for further guidance.

#### **Invoices must be raised for Travel time inclusive of collection and return of vehicle as follows:**



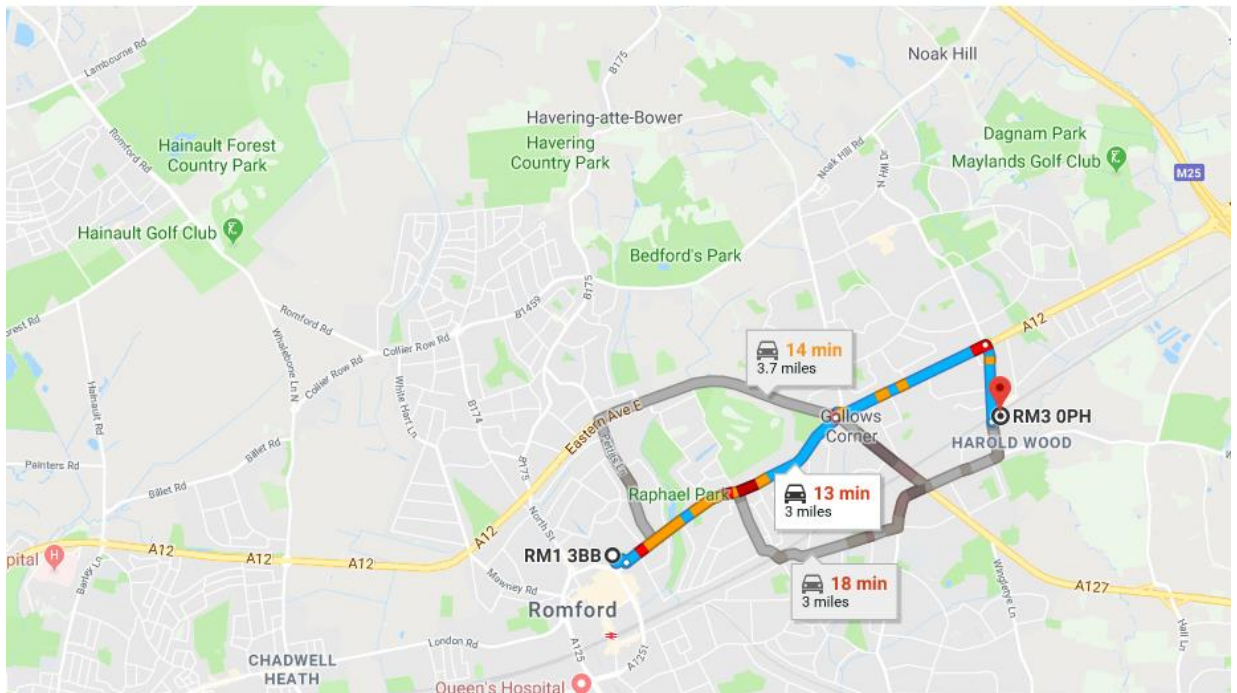
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- Print Google Map showing starting point, destination postcode and travel time

Romford RM1 3BB to RM3 0PH, Oak Rd, Romford

Drive 3.0 miles, 13 min

FIRST SERVICE FOR MR EXAMPLE



- Copy of pool car booking form showing start and end mileage
- Raise invoice according to time spent in collecting vehicle and travelling to and back from client's accommodation.
- Current fees applicable £10.00 per 15 mins.

**PROCEDURE NOTE NO. 22**

**Cash Collection**

Cash collection by clients or their carer should not be necessary.

However, should both the Nationwide account and National Westminster Open Credit Facility back up as in Procedure Note 12 fail, then the following will apply:

Cash may be held for clients in the safe and recorded on a spreadsheet CMS BALANCES stored in a folder of the same name: \data02\SS\Chippenham\Appoint & Receive\CMS BALANCES.

The Appointee and Deputyship Manager will ensure each client has a supply of cash to meet their weekly requirements. As need be, a cash withdrawal should be made from the bank. First a spreadsheet, listing clients and amounts required should be prepared, saved in the folder 'cash withdrawals', and printed out and authorised to accompany a bulk cheque for cash.

The cheque should be taken to the bank by two members of the Appointee and Deputyship Team who should have the office mobile phone with them. All the cash should be counted by the cashier, even weighed bundles and the Appointee and Deputyship staff should observe this.

On return to the office, the staff should check the money then distribute to the clients envelopes, at the same time checking the existing amounts tally with the CMS Balances spreadsheet and client cash sheets. All sheets should then be updated.

**APPENDICES**

**APPENDIX 1:      **Appointee/Court of Protection Referral Forms****

- ADT 1:      Basic Application
- COP3:      Court of Protection Assessment of Capacity

**APPENDIX 2:      **File Cover Sheet****

**APPENDIX 3:      **Personal Allowance Forms****

- ADT 6:      Cash Advance Sheet
- ADT 5:      Client Cash Balance sheet

**APPENDIX 4:      Fees and Charges**

# Appendix 1:

## Deputyship and Appointeeship Referral Form ADT1



**PLEASE DO NOT LEAVE BOXES BLANK.**

**PLEASE INDICATE THAT INFORMATION IS EITHER UNKNOWN, NOT APPLICABLE OR YOU ARE AWAITING DETAILS OF THE INFORMATION REQUIRED**

<b>CLIENT NAME:</b>	<b>SWIFT NO:</b>
---------------------	------------------

<b>NATIONAL INSURANCE NUMBER (Completion is Essential):</b>
---

<b>DATE OF BIRTH:</b> <u>    </u> / <u>    </u> / <u>    </u>
<b>Single:</b> <b>Married/Partner:</b> <b>Widowed:</b> <b>Divorced:</b>

<b>ADDRESS:</b>
<b>Owner Occupier</b> <b>Yes / No</b> <b>Tenant</b> <b>Yes / No</b> <b>Permanent Care</b> <b>Yes / No</b>

<b>PROPERTY OWNED:</b> _____ _____
<b>(Details of Key holder, Mortgage, Deeds etc.)</b> _____ _____
<b>TENANT:</b> <b>(Details of Key holder, Tenancy cancellation etc.)</b> _____ _____
<b>PERMANENT PLACEMENT DATE OF ADMISSION:</b> <u>    </u> / <u>    </u> / <u>    </u>

<b>NEXT OF KIN (Name, Address, Contact No.):</b> _____ _____ _____ _____
<b>Please confirm that neither the Next of Kin nor anyone else is willing and able to manage financial affairs in this service user's best interests: Yes / No</b>
<b>Is there an existing Appointee for pensions/benefits received from the Department of Works and Pensions?                      Yes / No</b>

**If yes, have you advised them to contact the DWP to relinquish Appointeeship?  
Yes / No**

**Please give details of anyone who is likely to object to the London Borough of Havering's application to the Court of Protection: \_\_\_\_\_**  
\_\_\_\_\_  
\_\_\_\_\_

**Is there evidence to show that that the potential objector would not act in the Service User's best interests?      Yes / No**

**If yes, then please provide details in the Background History section**

## **FINANCIAL DETAILS:**

### **STATE BENEFITS:**

(ANY CURRENT BENEFIT ORDER BOOKS WILL NEED TO BE RETURNED ALONG WITH THE APPLICATION)

RETIREMENT PENSION:	£	PENSION CREDIT:	£
DLA CARE:	£	DLA MOBILITY:	£
ATTENDANCE ALLOWANCE:	£	OTHER BENEFITS:	£
		(PLEASE NAME)	

### **OCCUPATIONAL/ PRIVATE PENSIONS:**

(GIVE PENSION FUND DETAILS, PAYMENT/EMPLOYEE NUMBER, AMOUNT PAID WEEKLY/MONTHLY)

### **BANK & BUILDING SOCIETY ACCOUNTS:**

(GIVE NAME, SORT CODE, ACCOUNT NUMBER, ADDRESS, BALANCE IF KNOWN, DETAILS OF DEBITS)

### **INSURANCE POLICIES:**

(GIVE COMPANY NAME, POLICY NUMBER)

### **NATIONAL SAVINGS CERTIFICATES:**

(GIVE CERIFICATE NUMBERS, AMOUNT OF INVESTMENT, PREMIUM BOND NUMBERS)

--

**STOCKS AND SHARES:**

(GIVE COMPANY NAME, SHARES HELD, CERTIFICATE NUMBER)

--

## BACKGROUND HISTORY:

PLEASE PROVIDE DETAILS GIVING RISE TO REFERRAL TO APPOINTEESHIP & RECEIVERSHIP TEAM. PLEASE SUPPLY AS MUCH INFORMATION AS POSSIBLE INCLUDING: FAMILY HISTORY, FORMER OCCUPATION, PREVIOUS PLACEMENTS ETC. PLEASE INCLUDE ANY CONTENTIOUS ISSUES.

---

### Reason for Referral:

#### Appointeeship

(State Pension/Benefits Only & Capital income  
Under £2,000.00)

#### Court of Protection

(State Pension/Benefits plus Private  
&/or Capital Level £2,000.00)

### Care Management Details:

Care Manager:

Telephone Number:

E-mail address:

Locality:

Signature:

Date:

### **COMPLETED FORM AND MENTAL CAPACITY ASSESSMENT FORM COP3 TO BE SENT TO:**

APPOINTEE AND DEPUTYSHIP MANAGEMENT

Mercury House 11<sup>th</sup> Floor

TEL: 01708 434385

FAX: 01708 433544

Or by E-MAIL: [cleintfinance@haverling.gov.uk](mailto:cleintfinance@haverling.gov.uk)

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## Court Assessment of Capacity



### Court of Protection Assessment of capacity

For office use only
Date received
Case no.
SWIFT id:-

Full name of person to whom the application relates  
(this is the person who lacks, or is alleged to lack, capacity)

#### Please read first

- If you are applying to start proceedings with the court you must file this form with your COP1 application form (unless the application is in relation to a lasting power of attorney or enduring power of attorney). The assessment must contain current information.
- You must complete Part A of this form.
- You then need to provide the form to the practitioner who will complete Part B. The practitioner will return the form to you or your solicitor for filing with the court.
- The practitioner may charge a fee for completing the form. Please ask the practitioner about the amount they will charge.
- The practitioner may be a registered medical practitioner, psychologist or psychiatrist who has examined and assessed the capacity of the person to whom the application relates. in some circumstances it might be appropriate for a registered therapist, such as a speech therapist or occupational therapist, to complete the form.
- Please continue on a separate sheet of paper if you need more space to answer a question. Write your name, the name and date of birth of person to whom the application relates, and number of the question you are answering on each separate sheet.
- There are additional guidance notes at the end of this form.
- If you need help completing this form please check the website, [www.publicguardian.gov.uk](http://www.publicguardian.gov.uk). for further guidance or information, or contact Customer Services on 0845 330 2900.
- Court of Protection staff cannot give legal advice. If you need legal advice please contact a solicitor.
- This form has been prepared in consultation with the British Medical Association, the Royal College of Physicians and the Royal College of Psychiatrists.



- When the form has been completed, its contents will be confidential to the court and those authorised by the court to see it, such as parties to the proceedings.

**Part A – To be completed by the applicant**

**Section 1 – Your details (the applicant)**

1.1 Your details Mr.

First name

Middle name(s)

Last name

1.2 Address (including postcode)

Telephone no.	Daytime	01708 434385
	Evening	
	Mobile	

E-mail address

1.3 Is a solicitor representing you? No

If Yes, please give the solicitor's details.

Name

Address (including postcode)

Telephone no.	<input type="text"/>	Fax no.	<input type="text"/>
DX no.	<input type="text"/>		
E-mail address	<input type="text"/>		

1.4 To which address should the practitioner return the form when they have completed Section 2?

Applicant's Address

**Section 2 – The person to whom the application relates (the person to be assessed by the practitioner)**

2.1

First name

Middle name(s)

Last name

Address (including postcode)

Telephone no.

Date of birth

Male

**Section 3 – About the application**

3.1 Please state the matter you are asking the court to decide. **(see note 1)**

WHETHER THE PERSON IS ABLE TO MAKE DECISIONS ABOUT THEIR FINANCIAL AND PROPERTY MANAGEMENT

3.2 What order are you asking the court to make?

TO PROVIDE EXTENDED POWERS TO THE LOCAL AUTHORITY FOR THE GENERAL MANAGEMENT OF FINANCES AND PROPERTY, INCLUDING ALL KNOWN EXISTING ASSETS AND ACCOUNTS, RECEIPT OF STATE BENEFIT ENTITLEMENT AND OTHER ELIGIBLE INCOME AND SALE OF PROPERTY

3.3 How would the order benefit the person to whom the application relates?

THE PERSON IS IN RECEIPT OF CARE MANAGEMENT SUPPORT WITHIN SOCIAL SERVICES. THE ORDER REQUESTED WILL PROVIDE FINANCIAL STABILITY TO ASSIST CARE PLANNING, WHILST CONSULTATION WOULD BE ENCOURAGED IN RESPECT OF DECISION MAKING WITH THE PERSON AND THEIR APPROPRIATE ADVOCATES WITHIN THE PRINCIPLES OF THE MENTAL CAPACITY ACT 2007.

3.4 What is your relationship or connection to the person to whom the application relates?

**Section 4 – Further information**

Please provide any further information about the circumstances of the person to whom the application relates that would be useful to the practitioner in assessing his or her capacity to make any decision(s) that is the subject of your application. **(see note 2)**

THE PERSON WOULD BE ELIGIBLE FOR THE SUPPORT AVAILABLE FROM THE CLIENT PROPERTY AND FINANCES UNIT (FORMERLY

RECEIVERSHIP UNIT) IF DIAGNOSED AS HAVING A MENTAL DISORDER WHICH IMPAIRS THEIR ABILITY TO MANAGE THEIR FINANCES AND PROPERTY PERSONALLY.

THE PERSON IS SUPPORTED BY SOCIAL SERVICES CARE MANAGERS, AND THE CLIENT PROPERTY AND FINANCES UNIT IS COMMITTED TO WORKING WITH SOCIAL WORK AND THE PERSON TO ACT IN THEIR PERCEIVED BEST INTERESTS, WHILST ADHERING TO THE PRINCIPLES OF THE MENTAL HEALTH ACT 1983 AND THE MENTAL CAPACITY ACT 2005.

---

**Now read note 3 about what you need to do next.**

---

**Part B – To be completed by the practitioner**

**Section 5 – Your details (the practitioner)**

5.1  Mr.  Mrs.  Ms.  Dr.   
Other \_\_\_\_\_

First name

Middle name(s)

Last name

Address (including postcode)

Telephone no.

E-mail address

5.2 Nature of your professional relationship with the person to whom the application relates (e.g. general practitioner, psychiatrist or other)

5.3 Professional qualifications

**Section 6 – Sensitive information**

If there is information that you do not wish to provide in this form because of its Sensitive nature you can provide the information directly to the court.

6.1 Are you providing any sensitive information separately to the court?  Yes  No

Please provide it in writing to:

Court of Protection & The Office of the Public Guardian

The Royal Courts of Justice

Thomas More Building

Strand

London WC2A 2LL

Please include your name and contact details and the name, address and date of birth of the person to whom the application relates on any information you provide separately to the court.

**Section 7 – Assessment of capacity**

7.1 The person to whom the application relates has the following impairment of, or disturbance in the functioning of, the mind or brain: **(see note 4)**

This has lasted since:

As a result, the person is unable to make a decision for themselves in relation to the following matter(s) in question:

7.2 The person to whom the application relates is unable to make a decision in relation to the relevant matter because: **(see note 5)**

he or she is unable to understand the following relevant information (please give details);

**and/or**

he or she is unable to retain the following relevant information (please give details);

**and/or**

he or she is unable to use or weigh the following information as part of the process of making the decision(s) (please give details);

**Or**

for cases where he or she can in fact understand, retain and use/weight the information but is unable to communicate his or her decision(s) by any means at all (please give details);

7.3 My opinion is based on the following evidence of a lack of capacity:

--

7.4 Please answer either (a) **or** (b).

(a) I have acted as a practitioner for the person to whom the application

relates since 

--	--	--	--	--	--	--	--

 and last assessed

him or her 

--	--	--	--	--	--	--	--

  
on

(b) I assessed the person to whom the application

relates on 

--	--	--	--	--	--	--	--

following a referral from:

--



7.5 Has the person to whom the application relates made you aware of any views they have in relation to the relevant matter?  Yes  No

If Yes, please give details.

7.6 Do you consider there is a prospect that the person to whom the application relates might regain or acquire capacity in the future in respect of the decision to which the application relates? **(see note 6)**

Yes – please state why and give an indication of an indication of when this might happen.

No – please state why.

7.7 Are you aware of anyone who holds a different view regarding the capacity of the person to whom the application relates?  Yes  No

If Yes, please give details.

7.8 Do you, your family or friends have any interest (financial or otherwise) in any matter concerning the person to whom the application relates?

Yes  No

If Yes, please give details.

7.9 Do you have any general comments or any other recommendations for future care? **(see note 7)**

Signed

Name

Date

---

**Now read note 8 about what you need to do next.**

---

**Guidance notes**

**Note 1**

Please refer to Part A of this form where the applicant has set out details of the application and relevant information about the circumstances of the

## About the application

These questions are repeated on the COP1 application form. Please copy your answers from the COP1 form so that the information on both forms is the same.

### Note 2

## Further information

Please provide any further information about the circumstances of the person to whom the application relates that would be relevant in assessing their capacity. For example, if your application relates to property and financial affairs, it would be useful for the practitioner to know the general financial circumstances of the person concerned. This information will help the practitioner evaluate the decision-making responsibility of the person to whom the application relates and may help to inform the practitioner's view on whether that person can make the decision(s) in question.

### Note 3

## What you need to do next

Please provide this form to the practitioner who will complete Part B.

The practitioner will return the form to you or your solicitor when they have completed Part B. You will then need to file the form with the court together with the COP1 application form and any other information the court requires. See note 8 on the COP1 form for further information.

### Note 4

## Assessing capacity

For the purpose of the Mental Capacity Act 2005 a person lacks capacity if, at the time a decision needs to be made, he or she is unable to make or communicate the decision because of an impairment of, or a disturbance in the functioning of, the mind or brain.

The Act contains a two-stage test of capacity:

1. Is there an impairment of or disturbance in the functioning of, the person's mind or brain?
2. If so, is the impairment or disturbance

person to whom the application relates. In particular, section 3.1 sets out the matter the applicant is asking the court to decide.

The assessment of capacity must be based on a person's ability to make a decision in relation to the relevant matter, and not their ability to make decisions in general. It does not matter therefore if the lack of capacity is temporary, if the person retains the capacity to make other decisions, or if the person's capacity fluctuates.

- Under the Act, a person is regarded as being unable to make a decision if they cannot:
- understand information about the decision to be made;
- retain that information;
- use or weigh the information as part of the decision-making process; or
- communicate the decision (by any means).

A lack of capacity cannot be established merely by reference to a person's age or appearance or to a particular condition or an aspect of behaviour. A person is not to be treated as being unable to make a decision merely because they have made an unwise decision.

The test of capacity is not the same as the test for detention and treatment under the Mental Health Act 1983. Many people covered by the Mental Health Act have the capacity to make decisions for themselves. On the other hand, most people who lack capacity to make decisions will never be affected by the Mental Health Act.

Practitioners are required to have regard to the Mental Capacity Act 2005 Code of Practice. The Code of Practice is available online at [www.publicguardian.gov.uk](http://www.publicguardian.gov.uk). Hard copies are available from The Stationery Office (TSO), for a fee, by:

- phoning 08706005522;
- emailing [customerservices@tso.co.uk](mailto:customerservices@tso.co.uk); or
- ordering online at [www.tsoshop.co.uk](http://www.tsoshop.co.uk).

For further advice please see (for example):

- Making Decisions: A guide for people who work in health and social care (2nd edition), Mental Capacity Implementation Programme, 2007.
- Assessment of Mental Capacity: Guidance for Doctors and Lawyers (2nd edition), British Medical Association and Law Society (London: BMJ Books, 2004)

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sufficient that the person lacks the capacity to make a decision in relation to the matter in question?

**Note 5**

**Capacity to make the decision in question**

Please give your opinion of the nature of the lack of capacity and the grounds on which this is based. This requires a diagnosis and a statement giving clear evidence that the person to whom the application relates lacks capacity to make the decision(s) relevant to the application. It is important that the evidence of lack of capacity shows how this prevents the person concerned from being able to take decision(s).

**Note 6**

**Prospect of regaining or acquiring capacity**

When reaching any decision the court must apply the principles set out in the Act and in particular must make a determination that is in the best interests of the person to whom the application relates. It would therefore assist the court if you could indicate whether the person to whom the application relates is likely to regain or acquire capacity sufficiently to be able to make decisions in relation to the relevant matter.

**Note 7**

**General comments**

The court may make any order it considers appropriate even if that order is not specified in the application form. Where possible, the court will make a one-off decision rather than appointing a deputy with on-going decision making power. If you think that an order other than the one being sought by the applicant would be in the best interests of the person to whom the application relates, please give details including your reasons.

**Note 8**

**What you need to do next**

Please return the completed form to the applicant or their solicitor, as specified in section 1.4. You are advised to keep a copy for your records.

## Appendix 2

### File Cover Sheet

NAME:.....	
ADDRESS:.....	
.....	
Property visit:.....	To Sell.....

SWIFT NO:.....
----------------

<b>Case Type:</b> .....
-------------------------

Court Reference:.....
-----------------------

NINO:.....
------------

Date of Birth:.....
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<b>NOTES:</b>
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## Appendix 3



### Personal Allowance Forms

#### Appointee and Deputyship

#### CASH RECEIPT TO CLIENTS

Name of Client \_\_\_\_\_

Home/Establishment \_\_\_\_\_

Date \_\_\_\_\_

Amount \_\_\_\_\_

Received By \_\_\_\_\_

Signed \_\_\_\_\_

## **Appendix 4: Fees and Charges**

### **PRACTICE DIRECTION – FIXED COSTS**

*This practice direction supplements Part 19 of the Court of Protection Rules 2007*

## **PRACTICE DIRECTION B – FIXED COSTS IN THE COURT OF PROTECTION**

### ***General***

1. This practice direction sets out the fixed costs that may be claimed by solicitors and public authorities acting in Court of Protection proceedings and the fixed amounts of remuneration that may be claimed by solicitors and office holders in public authorities appointed to act as a deputy for P. Rule 167 enables a practice direction to set out a schedule of fees to determine the amount of remuneration payable to deputies. Rule 168 enables a practice direction to make provision in respect of costs in proceedings.
2. The practice direction applies principally to solicitors or office holders in public authorities appointed to act as deputy. However, the court may direct that its provisions shall also apply to other professionals acting as deputy including accountants, case managers and not-for-profit organisations
3. This Practice Direction applies where the period covered by the category of fixed costs or remuneration ends on or after 1 February 2011. The Practice Direction supersedes the earlier Practice Directions and Practice Notes relating to fixed costs issued by the Court of Protection. However solicitors and office holders in public authorities should continue to claim the rates applicable in the previous Practice Directions and Practice Notes, where the period covered by the category of fixed costs or remuneration ended before 1 February 2011.

### ***When does this practice direction apply?***

4. Rule 156 provides that, where the proceedings concern P's property and affairs, the general rule is that costs of the proceedings shall be paid by P or charged to his estate. The provisions of this practice direction apply where the professional or deputy is entitled to be paid costs out of P's estate. They do not apply where the court order provides for one party to receive costs from another.

### ***Claims generally***

5. The court order or direction will state whether fixed costs or remuneration applies, or whether there is to be a detailed assessment by a costs officer. Where a court order or direction provides for a detailed assessment of costs, professionals may elect to take fixed costs or remuneration in lieu of a detailed assessment.



### **Payments on account**

6. Where professional deputies elect for detailed assessment of annual management charges, they may take payments on account for the first three quarters of the year, which are proportionate and reasonable taking into account the size of the estate and the functions they have performed. Interim quarterly Bills must not exceed 20% of the estimated annual management charges - that is up to 60% for the whole year. Interim bills of account must not be submitted to the Senior Courts Costs Office. At the end of the annual management year, the deputy must submit their annual bill to the Senior Courts Costs Office for detailed assessment and adjust the final total due to reflect payments on account already received

### **Solicitors' costs in court proceedings**

7. The fixed costs are as follows:

		<i>An amount not exceeding</i>
Category I	Work up to and including the date upon which the court makes an order appointing a deputy for property and affairs.	£850 (plus VAT)
Category II	Applications under sections 36 (9) or 54 of the Trustee Act 1925 or section 20 of the Trusts of Land and Appointment of Trustees Act 1996 for the appointment of a new trustee in the place of 'P' and applications under section 18(1)(j) of the Mental Capacity Act 2005 for authority to exercise any power vested in P, whether beneficially, or as trustee, or otherwise	£385 (plus VAT)

8. The categories of fixed costs, above will apply as follows:

- Category I to all orders appointing a deputy for property and affairs made on or after 1 February 2011.
- Category II to all applications for the appointment of a new trustee made on or after 1 February 2011.

### **Remuneration of solicitors appointed as deputy for P**

9. The following fixed rates of remuneration will apply where the court appoints a solicitor to act as deputy:

		<i>An amount not exceeding</i>
Category III	Annual management fee where the court appoints a professional deputy for property and affairs, payable on the anniversary of the court order	
	(a) for the first year:	£1,500 (plus VAT)
	(b) for the second and subsequent years:	£1,185 (plus VAT)

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Where the net assets\* of P are below £16,000, the professional deputy for property and affairs may take an annual management fee not exceeding 4.5% of P's net assets\* on the anniversary of the court order appointing the professional as deputy.

Category IV	Where the court appoints a professional deputy for personal welfare, the deputy may take an annual management fee not exceeding 2.5% of P's net assets* on the anniversary of the court order appointing the professional as deputy for personal up to a maximum of £500.	
Category V	Preparation and lodgement of the annual report or annual account to the Public Guardian	£235 (plus VAT)
Category VI	Preparation of an HMRC income tax return on behalf of P	£235 (plus VAT)

10. The categories of remuneration, above will apply as follows:

- Category III and IV to all annual management fees for anniversaries falling on or after 1 February 2011.
- Category V to reports or accounts lodged on or after 1 February 2011.
- Category VI to all HMRC returns made on or after 1 February 2011.

11. In cases where fixed costs are not appropriate, professionals may, if preferred, apply to the Supreme Court Costs Office for a detailed assessment of costs. However, this does not apply if P's net assets are below are £16,000 where the option for detailed assessment will only arise if the court makes a specific order for detailed assessment in relation to an estate with net assets of a value of less than £16,000.

12. Where the period for which an annual management fee claimed is less than one year, for example where the deputyship comes to an end before the anniversary of appointment, then the amount claimed must be the same proportion of the applicable fee as the period bears to one year.

### **Conveyancing costs**

13. Where a deputy or other person authorised by the court is selling or purchasing a property on behalf of P, the following fixed rates will apply except where the sale or purchase is by trustees in which case, the costs should be agreed with the trustees:

Category VII	A value element of 0.15% of the consideration with a minimum sum of £350 and a maximum sum of £1,500, plus disbursements.
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\* Net assets includes any land or property owned by P except where that land or property is occupied by P or one of P's dependents.

\* Net assets includes any land or property owned by P except where that land or property is occupied by P or one of P's dependents.

14. Category VII applies to any conveyancing transaction where contracts are exchanged on or after 1 February 2011.

### **Remuneration of public authority deputies**

15. The following fixed rates of remuneration will apply where the court appoints a holder of an office in a public authority to act as deputy:

		<i>An amount not exceeding</i>
Category I	Work up to and including the date upon which the court makes an order appointing a deputy for property and affairs.	£670
Category II	Annual management fee where the court appoints a local authority deputy for property and affairs, payable on the anniversary of the court order	
	(a) for the first year:	£700
	(b) for the second and subsequent years:	£585
	Where the net assets* of P are below £16,000, the local authority deputy for property and affairs may take an annual management fee not exceeding 3% of P's net assets on the anniversary of the court order appointing the local authority as deputy	
	(d) Where the court appoints a local authority deputy for personal welfare, the local authority may take an annual management fee not exceeding 2.5% of P's net assets* on the anniversary of the court order appointing the local authority as deputy for personal welfare up to a maximum of £500.	
Category III	Annual property management fee to include work involved in preparing property for sale, instructing agents, conveyancers, etc or the ongoing maintenance of property including management and letting of a rental property.	£270
Category IV	Preparation and lodgement of an annual report or account to the Public Guardian	£195

16. The categories of remuneration, above will apply as follows:

- Category I to all orders appointing a deputy for property and affairs made on or after 1 February 2011.
- Category II to all annual management fees for anniversaries falling on or after 1 February 2011.

*Social Services – Appointee Deputyship and Protection of Property*

- Category III on the anniversary of appointment as deputy where the anniversary falls on or after 1 February 2011; or upon completion of the sale of a property, where the transaction was concluded on or after 1 February 2011.
  - Category V to reports or accounts lodged on or after 1 February 2011.
17. Where the period for which the annual management fee ends before an anniversary, for example where the deputyship comes to an end before the anniversary of appointment, then the amount claimed must be the same proportion of the applicable fee as the period bears to one year.

*Social Services – Appointee Deputyship and Protection of Property*

**This Practice Direction is made by the President with the agreement of the Lord Chancellor, and will come into effect on 1st February 2011.**

Date 18 January 2011

*Sir Nicholas Wall*  
President

Date

Jonathan Djanogly

## Appendix 4:

# SD6: Office of the Public Guardian public authority deputy standards (web version)

Updated 17 January 2017

## Contents

1. [Introduction](#)
2. [1. Standard 1: Secure the client’s finances and assets](#)
3. [2. Standard 2: Gain insight into the client to make decisions in their best interests](#)
4. [3. Standard 3: Maintain effective internal office processes and organisation](#)
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6. [5. Standard 5: Health and welfare standards](#)

## Introduction

**These standards form an important part of our new, improved approach to supporting and supervising professional and public authority deputies.**

The standards have been developed in partnership with both professional and public authority deputies and their representative bodies.

This collaborative approach has been a major factor in making sure that the standards support you in the important work you do.

The standards clearly set out what is expected of professional and public authority deputies and provide an important checklist of actions and behaviours every deputy should follow.

The standards fall into clear categories, allowing you to easily reference those appropriate to the management of your clients’ affairs.

Standards one to four cover deputies acting under a property and affairs [court order](#), while standards two to five are relevant to those with personal welfare orders. All five standards apply to deputies with orders covering both property and affairs and personal welfare.

Deputies will be assessed against the standards either through face-to-face assurance visits, assurance reviews conducted by telephone or during case reviews. Anyone selected for an assurance visit will be told in advance.

Where deputies are falling short, we can identify areas of weakness quickly and take the necessary steps with you to put things right. Where there are significant breaches of the standards, we will seek to agree an action plan with you to address deficiencies. In cases of the most serious or fundamental breaches we may seek removal of the deputy.

Most importantly, however, these standards will help you make sure your clients’ best interests are served at all times.

## 1. Standard 1: Secure the client’s finances and assets

### 1a Benefits/assets/liabilities – when you receive a deputyship court order

Standards	Sources of evidence
1a (1) Search for, identify and secure assets, savings and investments at the earliest opportunity.	Records, letters and appointments attended with financial institutions and advisers. Inventory of assets and liabilities.
1a (2) Notify banks and financial institutions, where the client is known to hold an account, of the court order.	Records, letters and appointments attended with financial institutions and advisers.
1a (3) Where there are other sources of income, for example, private pensions, notify the provider of the court order.	Records, letters and appointments attended with financial institutions and advisers.
1a (4) Identify, review and secure all benefits the client may be entitled to. Submit claims and lodge appeals at the earliest opportunity.	Records, letters and appointments (if applicable) with <a href="#">DWP</a> , use of specialist benefit software or consultation with benefits advisers.
1a (5) Seek independent financial advice, where appropriate, to maximise the return on the client’s savings, investments and any other assets.	Record of financial advice received and subsequent investments made.
1a (6) Seek recovery of any money or assets owed to the client, by way of debts and/or loans, for example rent from lettings or utility accounts in credit.	Record of letters to and from organisations or individuals. Inventory of assets and liabilities, for example, utility companies, banks, loan companies.
1a (7) Ensure scrutiny of, and where appropriate payment of, any liabilities by the client, for example utility bills and care home bills.	Record of letters to and from organisations or individuals. Inventory of assets and liabilities, for example, utility companies, banks, loan companies.
1a (8) Where public authority care is being provided, ensure that a financial assessment has been progressed and that charges are accurate and based on up-to-date financial information.	Completed financial assessment forms, record of assessments, payment record, <a href="#">OPG102</a> .
1a (9) Open a deputyship account in the client’s name with the deputy named as such on the account. Ensure that all funds held for the client are held in accounts and/or investments in their name and kept separate from the funds of the deputy or other parties.	Copies of financial records and statements showing funds are held in accounts in the client’s name. Record of letters and conversations with financial institutions showing requests for the opening of deputyship accounts.

### 1b Benefits/assets/liabilities – ongoing

Standards	Sources of evidence
1b (1) Carry out benefit and public authority funding reviews at least once a year, ensuring any changes in the client’s assets are reported promptly.	Record of benefit and public authority funding reviews, contact with <a href="#">DWP</a> and date of last review.
1b (2) Ensure that staff hold appropriate skills and knowledge of benefits through regular training and	Training plan, skills matrix, relevant contacts available. Use of specialist

<b>Standards</b>	<b>Sources of evidence</b>
updates (including criteria for eligibility and how to apply).	benefits software or outsourcing.
1b (3) Carry out reviews of savings and investment portfolios at least once a year. Seek expert and independent advice when necessary.	Record of letters to and from investment advisers and date of last review.
1b (4) Demonstrate responsible use of assets, rather than asset preservation.	Records and evidence of decision making.

### **1c The client’s property (if they don’t live there) – when you receive a deputyship court order**

<b>Standards</b>	<b>Sources of evidence</b>
1c (1) Determine the ownership entry recorded at <a href="#">HM Land Registry</a> , for example, sole ownership, joint tenants, or tenants in common.	Records or letters from HM Land Registry showing property details.
1c (2) Where there is no other living owner able to do so, gain access to the property and carry out a visit to ensure it is secure.	Record to show when this was carried out, who carried it out and who was consulted before entry (for example, the client). Receipts for any costs incurred.
1c (3) Complete an inventory of contents. Consider what the property and its contents say about the client. This includes likes, dislikes, interests and family photos.	Inventory of property contents and value. Audit trail of items removed from the property and their location. If items are auctioned or sold, clear records of their disposal.
1c (4) Consider whether it is appropriate for items of sentimental value to be provided for the client where they now reside. For example, clothes, sentimental items, DVDs, CDs.	Record of best interest decisions made and family members or people consulted. Audit trail of items removed from the property and their location.
1c (5) Ensure appropriate buildings and contents insurance are in place and familiarise yourself with the terms of the policy.	Record of valid insurance such as the insurance policy or insurance certificate. Inventory of property contents and value.
1c (6) Get post redirected and maintain ongoing provision of utilities, if applicable.	Record of letters to and from Royal Mail and utility companies.
1c (7) If the property is owned by the client, liaise with the client, any joint owners and/or the client’s family, where appropriate, to decide the best course of action. Act accordingly – for example sell, let or maintain.	Record of best interest decisions made and family members/people consulted. Evidence that you are following the court order.
1c (8) If the client is in public authority funded care, give consideration to a deferred payment arrangement.	Record of best interest decision.
1c (9) If the client’s property is let, ensure that notice is given to terminate the tenancy, where appropriate, and in good time.	Record of best interest decisions made and letters to and from the tenant.
1c (10) Consider pre-existing arrangements of any family residing in the client’s property and whether it may be appropriate for regular	Record of best interest decisions made and family members/people consulted. Record of letters to and from the tenant. Evidence



**Standards**

**Sources of evidence**

payments to be made to or from the client.

of pre-existing agreements with the client and tenants.

**1d The client’s property (if they don’t live there) – ongoing**

**Standards**

**Sources of evidence**

1d (1) Ensure that the property is secured and maintained appropriately.

Record of letters and expenditure.  
Record of regular property inspection visits.

1d (2) If let, ensure the correct legal tenancy agreement(s) are in place and maintained. Consider seeking specialist property law advice if required.

Copy of tenancy agreement.

1d (3) If let, take reasonable steps to ensure that tenants maintain the property in good order and take appropriate action if they are in breach of the tenancy agreement.

Record of visits to the property and any discussions held with the tenants in line with the tenancy agreements.

1d (4) Undertake regular reviews of the client’s needs and undertake an evaluation of the decision to let or sell as appropriate.

Record of property reviews and best interest decisions made. Valuation quotes from estate agents.

1d (5) If selling the property, prepare the property for sale, engaging an agent and obtaining a minimum of three separate valuations.

Record of decision on asking price.  
Record of offers considered.

1d (6) Ensure appropriate buildings and contents insurance are in place and familiarise yourself with the terms of the policy.

Record of valid insurance such as the insurance policy or insurance certificate. Inventory of property contents and value.

1d (7) If let, ensure gas check certificates are obtained for gas fires, boilers and appliances.

Record of relevant certificates.

**1e The client’s property (if they live there) – when you receive the deputyship order**

**Standards**

**Sources of evidence**

1e (1) Review the client’s needs and the suitability of the property.

Visitor’s report. Evidence of people consulted and action(s) taken where improvements have been identified.

1e (2) Review any tenancy or mortgage agreements, securing any deeds of ownership.

Copies of any tenancy or mortgage agreements.

1e (3) Ensure appropriate buildings and contents insurance are in place and familiarise yourself with the terms of the policy.

Record of valid insurance such as the insurance policy or insurance certificate.

1e (4) Ensure gas check certificates are obtained for gas fires, boilers and appliances.

Record of relevant certificates.

1e (5) Review or commission a care plan or occupational therapy report and commission any aids/adaptations necessary to ensure that the client’s needs are met.

Record of best interest decisions made and family members/people consulted. Care plan, occupational therapist’s report.

**Standards**

**Sources of evidence**

1e (6) If the client is responsible for household bills, agree any contributions to be made from, or to, other household members where necessary.	Record detailing client's contribution, utility bills, record of best interest decisions made and people consulted.
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**1f The client's property (if they live there) – ongoing**

**Standards**

**Sources of evidence**

1f (1) Regularly review the condition of the property and ensure it is adequately maintained.	Record of visit and survey of property.
1f (2) Regularly review the suitability of the property for the client and commission updated care plans.	Record of people consulted and best interest decisions made.
1f (3) Regularly review arrangements with other occupiers.	Record of people consulted and best interest decisions made.

**1g Care arrangements – when you receive the deputyship court order**

**Standards**

**Sources of evidence**

1g (1) Contact the care providers, tell them of your appointment as deputy and provide your contact details.	Record of contact to and from care providers.
1g (2) Ensure any level of care (including any supplementary therapies or treatments) is relevant to the client, good value for money and appropriate to the level of funds available.	Record of best interest decisions made and people consulted. Care plans and records of regular reviews.
1g (3) Arrange for the client to receive a personal allowance, relevant to their needs.	Record of personal allowance being paid, for example, a bank statement or ledger.

**1h Care arrangements – ongoing**

**Standards**

**Sources of evidence**

1h (1) Arrange for the client to receive a personal allowance, relevant to their needs.	Record of care reviews, any recommendations made and changes to be implemented.
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**2. Standard 2: Gain insight into the client to make decisions in their best interests**

**Standards**

**Sources of evidence**

2 (1) Ensure capacity assessments in respect of specific decisions have been carried out when receiving the case and as future decisions are required.	Copies of capacity assessments. Record of ongoing reviews.
2 (2) Maintain records of decisions made, including gifting, who was consulted and the reasons for any decisions.	Decision checklist. Record of family members/people consulted and best interest decisions made.
2 (3) Discuss and record the client's feelings, wishes, beliefs and interests, both past and present, with the client, their family and care providers.	Records including correspondence, phone calls, minutes and case notes.

<b>Standards</b>	<b>Sources of evidence</b>
2 (4) As appropriate, discuss any decisions to be taken with the client’s family and care providers according to the client’s wishes.	Records including correspondence, phone calls, minutes and case notes.
2 (5) Maintain regular contact with the client/carers/family members and conduct visits to the client at least once a year.	Record of contact/visits, any recommendations and follow up action taken.
2 (6) Carry out regular reviews of the client’s needs, expenditure and their capacity to handle money. For example do they receive benefits or a weekly cash allowance?	Record of capacity assessments, best interest decision making.
2 (7) Actively demonstrate protection of the client from exploitation of financial abuse (for example, through registration with credit protection agency).	Record of correspondence with financial institutions.
2 (8) Use appropriate ways to communicate with the client, for example, in his or her preferred language.	Record of services used to improve communication with client and any associated invoices.

### **3. Standard 3: Maintain effective internal office processes and organisation**

#### **3a Governance**

<b>Standards</b>	<b>Sources of evidence</b>
3a (1) Establish clear and effective governance between the named deputy and staff delegated to carry out the day-to-day functions of the role.	Clear and organised files, attendance notes. Clearly defined roles and processes in place so staff know who to report to and when. Compliance controls in place.
3a (2) Maintain a clear record of all staff delegated the authority to carry out tasks by the deputy, including a list of signatories.	Record of all staff members.
3a (3) Demonstrate sufficient senior internal supervision of the overall deputyship process.	Documented policies and procedures, clear team structures in place.
3a (4) Where a level of decision making is delegated, ensure the criteria for decision making requiring the sanction of the deputy are clearly defined and understood.	Compliance controls and an audit trail.
3a (5) Ensure documented agreements and of accountability are in place for any duties performed by staff outside the public authority (that is, outsourced). Carry out appropriate oversight and monitoring and clearly show that the named deputy remains fully accountable for decisions taken in respect of clients.	Documentation showing that the named deputy remains fully accountable for decisions taken in respect of clients.
3a (6) Ensure that all necessary financial, security, management, organisational and	Records on staff with access to sensitive client information, including employment contract,

**Standards**

**Sources of evidence**

quality control systems are in place with regard to:

- accounting systems
- controls over cash handling, banking and access to bank accounts
- separation of clients’ funds
- IT security and information assurance

checks for previous convictions for fraud, criminal record checks. Record of enhanced checks for those who have direct contact with the client. Record of induction training, ongoing training and Continuing Professional Development. Record of written policies. Bills or invoices with appropriate narrative/ itemisation to account to the client, where appropriate, regarding their finances and your charges.

3a (7) Maintain clear policies on:

- data protection
- business continuity
- banking and money handling.

Internal policies, procedures and training records specific to work under a [Court of Protection](#) deputyship order.

3a (8) Maintain confidentiality on individual client matters.

Records on staff with access to sensitive client information, including employment contract, checks for previous convictions for fraud, criminal record checks. Record of enhanced checks for those who have direct contact with the client. Record of induction training, ongoing training and Continuing Professional Development. Clear information assurance policies and procedures in place. Secure filing/electronic case records.

3a (9) Keep client records up to date by regularly reviewing and recording the client’s capacity, capability and support they need.

Record of client profiles. Clear safeguarding systems in place, audit trail.

3a (10) Carry out regular billing of deputy’s costs in line with the fixed costs practice direction.

Financial records and deputy report.

3a (11) Review the ratio of staff to cases.

Show ongoing review of the ratio of staff to cases to ensure deputy’s obligations are met.

3a (12) Document referral criteria for deputyships widely disseminated this to social care staff within the public authority.

Records and documentation on referrals.

3a (13) Ensure accounting and audit processes are in place within the public authority.

Record of audits.

**3b Office culture and customer service**

**Standards**

**Sources of evidence**

3b (1) Ensure that opportunities exist for members of staff to hold case discussions with peers or senior

Record of best interest decisions, who’s been consulted, minutes, case

<b>Standards</b>	<b>Sources of evidence</b>
supervisor/manager.	notes.
3b (2) Ensure there is adequate cover during holiday/absence periods.	Records on office whereabouts, appropriate planning for staff absences and business continuity plans.
3b (3) Ensure access to the services of translators and interpreters, where necessary.	Record of relevant contact details, information packs.
3b (4) Have access to specialist advice, for example, a financial accountant, either internally or externally.	Record of advice sought/provided and by whom.
3b (5) Ensure that all parties have access to a copy of the documented complaints handling procedure and the options for resolving disputes.	Record of relevant contact details, information packs.
3b (6) Ensure that all decisions taken are free from any conflict of interest, be it personal or organisational.	Records of conflict of interest and decision making and any declarations.
3b (7) Ensure that the deputy's or case supervisor's contact details are provided to all relevant parties.	Record of general correspondence.

### **3c Safeguarding**

<b>Standards</b>	<b>Sources of evidence</b>
3c (1) Ensure all staff are aware of procedures to follow in handling safeguarding issues. The deputy should know how to make a referral to the relevant authority.	Record of referrals made. Record of training attended. Office policy documents.

## **4. Standard 4: Have the skills and knowledge to carry out the duties of a deputy**

<b>Standards</b>	<b>Sources of evidence</b>
4 (1) Ensure the deputy and all members of staff delegated with deputyship responsibilities understand the <a href="#">Mental Capacity Act (MCA)</a> and its <a href="#">Code of Practice</a> .	Record of training attended, Continuing Professional Development points, reference material used. Affiliation to relevant organisations such as the <a href="#">Association of Public Authority Deputies (APAD)</a> . Client records that demonstrate systematic application of the principles of the MCA.
4 (2) Ensure the deputy and all members of staff delegated with deputyship responsibilities understand how the five statutory principles of the MCA are applied within their working practices.	Case specific example of how each of the five statutory principles have been applied.
4 (3) Ensure the deputy and all members of staff delegated with deputyship responsibilities understand Court of	Record of training plans, skills matrix for all staff members.

## Standards

## Sources of evidence

Protection practice and procedures.

4 (4) Ensure the deputy and all members of staff delegated with deputyship responsibilities know about the role of the Public Guardian and his role in supervising deputies.

Record of training plans, skills matrix for all staff members. OPG records.

4 (5) Ensure the deputy and all members of staff delegated with deputyship responsibilities know how to get appropriate advice and expertise on Social Security benefits, including eligibility criteria.

Record of relevant contact details, information packs. Record of advice sought/provided.

4 (6) Ensure the deputy and all members of staff delegated with deputyship responsibilities know how to access appropriate advice and expertise on [NHS Free Nursing Care and Continuing Health Care](#) funding or funding under section 117 of the [Mental Health Act 1983](#).

Record of relevant contact details, information packs. Record of advice sought/provided.

4 (7) Ensure the deputy and all members of staff delegated with deputyship responsibilities know about public authority funding and charges for care, and how to access appropriate advice and expertise.

Record of relevant contact details, information packs. Record of training plans, skills matrix for staff members.

4 (8) Ensure the deputy and all members of staff delegated with deputyship responsibilities know about promoting the ongoing allocation of a care professional when the client doesn't have any family, carer or friend who could speak on their behalf.

File records, record of relevant contact details.

4 (9) Ensure the deputy and all members of staff delegated with deputyship responsibilities have access to appropriate advice and expertise on investments, savings and property.

Record of relevant contact details, information packs. Record of advice sought/provided.

4 (10) Ensure the deputy and all members of staff delegated with deputyship responsibilities have access to appropriate advice and expertise on inheritance tax planning and trusts, including how to apply for a statutory will.

Record of relevant contact details, information packs. Record of advice sought/provided.

4 (11) Ensure the deputy and all members of staff delegated with deputyship responsibilities have access to appropriate advice and expertise on personal tax returns.

Record of relevant contact details, information packs. Record of advice sought/provided.

4 (12) Ensure the deputy and all members of staff delegated with deputyship

Access to mediation services.

## Standards

## Sources of evidence

responsibilities have awareness or experience in managing family conflict/mediation.

# 5. Standard 5: Health and welfare standards

For deputies who hold a personal welfare court order only, and deputies who hold both a personal welfare court order and a property and affairs court order.

## Standards

## Sources of evidence

5 (1) Adhere to the personal welfare court order and its limitations under the Mental Capacity Act – for example, when deciding where the client should live. If self funding the deputy can choose any accommodation they wish as long as it meets the client’s needs. If the client is not self funding, the deputy must work alongside the funding provider and come to a mutual agreement in the best interests of the client.

Records, letters and appointments attended with care providers, Social Services, the public authority, family and friends. Record of best interest decisions made and people consulted, care plans and regular reviews.

5 (2) If carers are employed, ensure appropriate [Discolure Barring Service \(DBS\)](#) checks are in place and that the number of carers meets the client’s needs.

Record of DBS checks carried out on staff working with client seen by the deputy. Record of best interest decisions made and people consulted, care plans and regular reviews.

5 (3) If a Deprivation of Liberty (DoL) order exists for the client, the deputy must ensure it is relevant and current.

Records to show that discussion has taken place with the person responsible for applying to put the DoL in place – for example, the care home manager.

5 (4) Carry out a health review/assessment at least once a year to ensure the client’s needs have not changed and are still being met.

Records, letters and/or appointments to show that the health review/assessment has taken place.

5 (5) Deputies should be aware of the [Care Act](#), where wellbeing is paramount, and act accordingly.

Awareness of the new Act and accessing it via [GOV.UK](#) for further clarification or information.

5 (6) Notify all involved in the client’s network, such as clinicians, care provider and other professionals, and send copies of the court order.

Records, letters and appointments attended with financial institutions and advisers.

[Contents](#)

## Appendix 6

# Havering Multi-Agency Safeguarding Adults Incident reporting/ Alert Form



**Phone first then complete form as soon as abuse/suspected abuse has been reported, and send to:**

**Safeguarding Adults Team**  
 Social Care & Learning Directorate  
**Adult Social Services**  
 London Borough Havering  
 Mercury House  
 Mercury Gardens  
 Romford  
 RM1 3SL  
 Tel: 01708 433550  
 Fax: 01708 432497 (Safe Haven)

[Safeguarding\\_Adults\\_Team@havering.gov.uk](mailto:Safeguarding_Adults_Team@havering.gov.uk)

**1. Details of Adult at Risk**

<b>Title:</b> Mr/Mrs/Ms/other	<b>First name:</b>  <b>Usually known as:</b>	<b>Surname:</b>	Client ID Hospital No. AIS/RiO No.
<b>Address:</b>  <b>Postcode:</b> <b>Tel:</b>		<b>DOB:</b>  <b>Age:</b>	
<b>Type of accommodation:</b> Own home <input type="checkbox"/> Residential Care <input type="checkbox"/> Nursing Care <input type="checkbox"/> Supported Housing <input type="checkbox"/> Other <input type="checkbox"/>  Access: Key safe No:		<b>Communication Needs:</b> Other language <input type="checkbox"/> Due to illness <input type="checkbox"/> Hearing impaired <input type="checkbox"/> Deaf <input type="checkbox"/> Blind <input type="checkbox"/> Interpreter required <input type="checkbox"/> Non-verbal <input type="checkbox"/>	
<b>Marital status:</b>		<b>Gender:</b> Male <input type="checkbox"/> Female <input type="checkbox"/> Trans/G <input type="checkbox"/>	<b>Ethnic origin:</b>
<b>Religion:</b>		<b>Others already notified:</b> Police Yes <input type="checkbox"/> No <input type="checkbox"/> Incident No: Date: Please list others:	
<b>User group: (tick as appropriate)</b> Older People <input type="checkbox"/> Mental Health <input type="checkbox"/> Supporting People <input type="checkbox"/>		Learning Disabilities <input type="checkbox"/> HIV/AIDS <input type="checkbox"/> Alcohol/Substance Misuse <input type="checkbox"/>	
Self-funding <input type="checkbox"/> Physical Disability <input type="checkbox"/> Carers <input type="checkbox"/> Other (Sensory) <input type="checkbox"/>			
<b>GP:</b>  Tel:		<b>Next of Kin:</b> Name: Address:  Tel:	
Was the adult placed by another authority from outside council area? Yes <input type="checkbox"/> No <input type="checkbox"/>			

**2. Details of alleged incident**

Brief description including injuries





DOB:	Age:	Gender:
Is person alleged to have caused harm also an adult at risk? <input type="checkbox"/>		Yes <input type="checkbox"/> No <input type="checkbox"/>
Is he/she known to social services? If yes, what team: Swift/AIS number: Relationship to victim if any:		Yes <input type="checkbox"/> No <input type="checkbox"/>
Any information relating to person alleged to have caused harm: History of violence (weapon, drugs, alcohol, sexual, physical, verbal): please indicate		
Is the person alleged to have caused harm aware of the alert?		Yes <input type="checkbox"/> No <input type="checkbox"/>
Does the person alleged to have caused harm live with the adult at risk?		Yes <input type="checkbox"/> No <input type="checkbox"/>
Is the person alleged to have caused harm the main carer?		Yes <input type="checkbox"/> No <input type="checkbox"/>

### 5. Details of person making the alert

Full name:	Address:	Contact details: Tel: Fax: Email:
Organisation:	Relationship to victim:	
Is alert for:  (a) Notification <input type="checkbox"/> or (b) Investigation <input type="checkbox"/>		

### 6. Other relevant information

Does the adult at risk have mental capacity?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Does the adult at risk know this alert has been made? (In some cases intervention may be limited without consent)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Has the adult at risk given consent to proceed to an investigation?	Yes <input type="checkbox"/> No <input type="checkbox"/>

### 7. Reported by telephone to

Full name:	Team:
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Job title:	Date: Time:

**Signed:**

**Dated:**

Where is appendix 6 and check both 5 & 6 as not consistent with content?