

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ADULT CARE AND HEALTH SERVICES

TO:	POLICY COMMITTEE		
DATE:	16 JANUARY 2017	AGENDA ITEM:	15
TITLE:	DEPUTIES SERVICES		
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SERVICE:	DEPUTY'S OFFICE	WARDS:	BOROUGH WIDE
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**1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 This report sets out the rationale for adopting the revised policy on how Reading Borough Council (RBC)'s Deputy's Office operates, particularly in relation to charging, which was approved at the Committee's meeting on 26 September 2016 subject to consultation and an Equality Impact Assessment.
- 1.2 The proposed changes have been discussed with stakeholders - primarily current users of the service and their families - over the course of a six week consultation. Consultation feedback is presented here, along with an Equality Impact Assessment which identifies a potential adverse impact, but one which is outweighed by the likely adverse impact of alternative courses of action. Adverse impact can be mitigated via a local hardship policy which is proposed as part of the new Deputy's Office policy.

**2. RECOMMENDATIONS**

- 2.1 That, having considered the findings of a public consultation on proposed changes to the Council's Deputy's Office service (detailed in the Consultation Report at Appendix A), and also the anticipated impact of the proposed changes to the Deputy's Office service on the discharge of the Council's duties as a public body as set out in the Equality Act 2010 (detailed in the Equality Impact assessment at Appendix B), Policy Committee agrees to the adoption of a revised Deputy's Office Policy (set out at Appendix C) with immediate effect.

**3. POLICY CONTEXT & BACKGROUND**

- 3.1 Every adult has the right to manage his or her own money and affairs. However, this may be difficult for some individuals due to illness, disability or an accident. Where an individual becomes unable to manage their own affairs without first granting a lasting power of attorney (a legal way to give someone else the power to manage their financial affairs if they cannot) the matter can be taken to the Department of Work and Pensions or the Court of Protection to appoint someone as responsible for helping the individual with financial management. In most cases, family members,

friends or a solicitor will undertake this task. However, where no suitable arrangement can be made with others, the local authority can undertake this role.

- 3.2 RBC offers services through its Deputy's Office Team to help individuals manage their financial affairs. Support is offered by undertaking a role as either an Appointee or Deputy. An Appointee usually works, with the individual's consent and instruction, to manage their benefits and financial affairs, and can do this on their behalf if they lack capacity if authorised by the Department of Works & Pensions (DWP). A Deputy appointed by the Court of Protection has a legal power to manage the individual's finances because they lack the mental capacity to do so themselves.
- 3.3 The provision of appointeeship and deputyship services are not statutory duties for local authorities. However, under the Care Act, local authorities (LAs) must provide '*information and advice on the Court of Protection, power of attorney and becoming a Deputy*'. Further, Care Act guidance makes several references to the LA's ability and power to apply to be appointed. In Reading, the local authority has continued to provide appointeeship and deputyship services to meet identified needs. However, the charges applied for the service have not been reviewed for several years, and are now out of line with practice elsewhere in Court of Protection and in the country.
- 3.4 RBC is the main provider of deputy and appointee services in Reading. The Office acts as a Deputy for approximately 124 Reading residents and Appointee for a further 125 Reading residents. There is relatively little alternative service provision locally, and none offer a service that includes the prevention and early intervention work that the Reading Deputy's Office provides. If the service did not exist, service users lacking mental capacity might need to be supported to manage their finances by care management staff, or via direct payments to purchase the services of external financial advisers.
- 3.5 A proposal to consult on changes to the Council's Deputy's Office Policy was approved by Policy Committee on 26<sup>th</sup> September 2016.

#### 4. THE PROPOSAL

- 4.1 The proposal is to replace the Council's current (2009) Deputy's Office Policy with the revised Deputy's Office Policy which appears at Appendix C. The main provisions of the new policy are to:
  - (a) Reaffirm the alignment of RBC's charging schedule to any current or future CoPs fixed amounts, or specified rates which is the maximum permissible;
  - (b) Apply the means testing and thresholds outlined by the CoP directive for deputyship;
  - (c) Implement a local exemption criteria in cases where undue hardship may be caused by the payment of any fees, application for exemptions to be considered by RBC's deputies and appointeeship authorising officer (currently the Director of Adult Care and Health Services); and
  - (d) implement local discretionary charging (Category III, IV and disbursement) of specialist services that customers would otherwise be expected to pay for e.g. funeral arrangements, conveyancing for house sales etc, to both deputyship and appointeeship customers.
- 4.2 The alternative to adopting this revised policy is for the Council to continue to charge for Deputy Office functions as currently, which recoups only part of the costs of providing the service and is not in line with national practice in other Authorities, DWP or Court of Protection. The Council's current policy does not give the authority a

basis on which any future changes could be applied<sup>1</sup>. Further, any direction from the CoP adding to the compulsory responsibilities<sup>2</sup> of deputies is likely to impact negatively on RBC's ability to sustain a deputy office, certainly without incurring further cost to the Council.

## 5. CONTRIBUTION TO STRATEGIC AIMS

5.1 The current Deputy Office policy (2009) outlines charging for deputyship but not for appointeeship services. A revised Deputy Office Policy (Appendix C) has been prepared for consideration and approval. The revised policy is aligned with the following corporate service priorities:

- Safeguarding and protecting those that are most vulnerable
- Remaining financially sustainable to deliver these service priorities

## 6. COMMUNITY & STAKEHOLDER ENGAGEMENT

6.1 A six-week consultation was carried out from 3<sup>rd</sup> October to 14<sup>th</sup> November 2016. All but one of the existing service users was contacted. The one service user not contacted is in hospital and it was not appropriate for Officers to contact them - Officers will continue to monitor their circumstances.

6.2 A total of 38 responses were received. 89.47% (34) of respondents felt it was important to keep the Deputy Office service in Reading with over half expressing examples of how and why it was important to them. The general feedback was that the service was good, efficient and important to service users as it helped them manage and meet their financial responsibilities and that staff were friendly and approachable.

6.3 39.47% (15) respondents said the changes would impact on them and the majority acknowledged that the proposed changes meant they could be asked to pay more and therefore have less money. A few stated that this would not be their preferred option, but this feedback needs to be read alongside the clear majority view that it is important to retain the service. Just 7.89% (3) respondents answered that it was not important to keep the service in Reading. The consultation material spelled out the need to make changes to the charging rules in order to make the service financially sustainable.

6.4 Informal feedback received by Deputy Officers during face-to-face discussions during the consultation period mirrored much of the formal responses received through the questionnaire. Generally, service users would rather not have to pay or pay more (dependent on their circumstances) but they wanted to have a Deputy's Office available to support them, so accepted the rationale for the proposed changes and were aware that, if adopted, the changes would likely commence in January 2017.

6.5 Consultation feedback is set out in further detail in the Consultation Report which appears at Appendix A. It should be borne in mind that in the absence of adopting the revised policy - which gives a realistic expectation of running the Deputy Office on a cost neutral basis - then the Council could have to consider ceasing the provision of services. At such point, further consultation would be required with existing users (or, if the user is incapacitated, with any representative) who should be given sufficient

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<sup>1</sup> OPG has announced it is reviewing the charges that Deputies can charge for, Officers have cited this and fees look to be increasing. Date of intended change is unknown but is likely to be in 2016/17. These have been used to calculate the 2017/18 income as aligning charging means RBC would be in a position to adopt the new charges

<sup>2</sup> Officers have seen a draft document released by the OPG/CoP that they intend to make it compulsory that annual reports are completed for all Deputies clients compulsory rather than on request only. No changes to services or systems means the current team would be unlikely to take on this responsibility without risk to the quality of service

notice to make any necessary adjustments. It is likely there would be a cost to the Council to execute this.

## **7. EQUALITY IMPACT ASSESSMENT**

7.1 The local authority is under a legal duty to comply with the public sector equality duties set out in Section 149 of the Equality Act (2010). In order to comply with this duty, members must positively seek to prevent discrimination, and protect and promote the interests of people in possession of 'protected characteristics' per the Act. All users of the Deputy's Office are likely to be in possession of protected characteristics by virtue of disability or possibly old age. The likely equality impacts of the suggested changes to the Deputy Office policy therefore need to be analysed and considered before an amended policy is approved.

7.2 A full Equality Impact Assessment (EIA) appears at Appendix B. A potential negative impact on people with a disability has been identified, in that some users of the Deputy's Office service would have less disposable income under the proposed change. However, not introducing these changes would compromise the sustainability of the service, and the impact of closing the Deputy's Office is likely to outweigh the negative impact of intruding the new policy on charging. Adverse impacts will be monitored through the financial planning which the Deputy's Office carries out with each individual service user. This will include support to apply for exemptions under the Council's local hardship policy where appropriate.

## **8. LEGAL IMPLICATIONS**

8.1 The Equality Impact Assessment at Appendix B has been prepared so that members of the Policy Committee can give conscious and open minded consideration to the impact of the public sector equality duty (see para 7.1) before taking a decision on whether to adopt the new Deputy's Office policy.

8.2 The Equality Impact Assessment has in turn been informed by the outcome of public consultation as described above. Case law establishes the following principles in relation to consultation before a policy change is undertaken:-

*First, that consultation must be at a time when proposals are still at a formative stage.*

*Second, that the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response.*

*Third, that adequate time must be given for consideration and response and, finally,*

*fourth, that the product of consultation must be conscientiously taken into account in finalising any statutory proposals.*

The Consultation Report at Appendix A has been prepared to enable members of the Policy Committee to consider stakeholder views before deciding whether to adopt the new policy as proposed.

## **9. FINANCIAL IMPLICATIONS**

9.1 The following is a breakdown of the projected expenditure and income for the Office in 2016/17 under current charges, and for 2017/18 under the proposed charging schedule (i.e. full year effect).

	2016/17 current charging practice	2017/18 new charging <sup>1</sup>
Service expenditure	£ 164,349	£160,312
Income	£56,100**	£136,253
Net service cost	£108,249	£24,059
Cost to Adult Social Care	£94,400***	£10,210***

\* There is a high probability that this will be affected by staff sickness, back-payment of staff and transferring budgets. The Office has accounted for as much as we know at the moment.

\*\* This is likely to be higher in 2016/17 due to backdated charging project which was processed in Quarter 1 of this financial year.

\*\*\* The annual customer service support cost of £13,849, is absorbed within the customer service budget.

9.2 Delivery the service in 2017/18 for the budget proposed here is dependent on several issues:

**Policy** - The Council agrees and adopts the revised Policy.

**Staffing** - The Deputy Office needs to be staffed appropriately and have processes and systems in place to secure income. At the moment there is risk within this and this will remain a risk until the CASPAR system is purchased and embedded within the Deputy Office.

**Finances** - The financial position of customers remains stable - as any significant changes will have an impact on income projections; No other unknown fees or charges are recharged to deputies cost centre.

**National policy** - any amendments to the CoP practice direction is likely to have an impact on income and possibly staffing projections needed to maintain the Office.

## 10. BACKGROUND PAPERS

'Deputies Services' report to Policy Committee 26<sup>th</sup> September 2016

# *Deputies Office* Consultation Report

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## 1.0 Introduction

Reading Borough Council (RBC) can apply to the Court of Protection (CoP) to become someone's deputy or appointee to help them manage and make decisions about their own financial affairs. RBC only do this when a person does not have the capacity or ability to manage and has no other suitable individual to assist them. RBC offers information, support and advice to others on how to apply.

RBC's Deputy Office policy & procedures were originally published in 2009 and have not been updated since then. A review of the policy was undertaken which highlighted a number of changes in practice that had occurred and also variations in how RBC was applying fixed fees and charges in practice. A new draft Deputy Office policy was written to reflect the changes and variation in practice. The proposed changes were also driven by RBC's need to align the Deputy Office services with guidance set by the Court of Protection (CoP), to secure the service and to make it financially sustainable.

This paper is a summary of the responses to the six-week consultation on the draft revised policy, which ran from 3<sup>rd</sup> October 2016 to 14<sup>th</sup> November 2016. It will provide background information on the Deputy Office, details of the consultation - for example, consultation materials, rationale for consultation, who was consulted and how, and finally the outcome.

## 2.0 Background

The provision of appointeeship and deputyship services are not statutory duties for local authorities, under the Care Act (2014) or otherwise. However, the provision of these services is recognised good practice. In their absence, it is likely that demand on other council services would increase and RBC would need to review its commissioning plans to help meet the needs of some vulnerable Reading residents. The Deputy Office currently acts as either a deputy or an appointee for 211 Reading residents.

The consultation outlined RBC's intention to ask people who can afford it, to pay for Deputy Office Services they receive in future. RBC had not been applying a charge for all services chargeable under its previous policy - for example (where applicable), the annual property management fee. In addition, there had been changes in practice over time contrary to the stated policy on charges for appointees to access a money management service.

The proposed Deputy Office Policy included:

- aligning fees and charges for all Deputy Office service users
- applying charges for all services where a service user utilises them
- introducing a disbursement fee for services that all clients would normally be expected to pay
- protection against service users being placed into undue hardship as a result of paying a fee or charge.

The consultation was designed to generate feedback which would assist RBC to understand the impact of the proposed changes, and also to be transparent about RBC's need make the service financially sustainable in order to secure the future of the service for Reading residents.

## 3.0 The consultation

### 3.1 *Why we consulted*

As RBC was considering making a number of changes to the Deputy Office Policy, the Council felt obliged to consult with those affected. Whilst some of the changes to practice were in line with the Court of Protection's fixed costs and fees guidance, there was some local discretion being suggested and this would primarily impact on those for whom the Council acts as appointee. RBC wanted to seek feedback to help inform the decision as to whether to adopt the changes and also on the value of the service.

### 3.2 *Consultation material*

Consultation materials were available both in hard copies and online. The *Deputy Office Consultation* pack posted to services users and/or their families included:

- Consultation Letter (Appendix A)
- An easy read Deputy Office Charging Schedule (Deputy - Appendix B; Appointee - Appendix C)
- Consultation Questionnaire (Appendix D)
- Frequently Ask Questions (Appendix E)

Online consultation materials excluded the consultation letter.

The consultation pack was designed based upon other consultations that had been used by RBC Adult Social Care. The Frequently Asked Questions summary was also developed with input from other RBC Adult Social Care staff and the local Reading Healthwatch. Packs were available in other alternative formats such as large print, Braille and audio as well as in languages other than English on request.

#### 3.2.1 Deputy Office Charging Schedule (Deputy and Appointee)

This document (Appendices B and C) set out a summary of the proposed changes specific to each service. The summary provided an outline and detail of the service, the current fees/charges that are applied and what the proposed new charges would be. A summary was used rather than the full Deputy Office Policy as it was felt it made it easy for people to easily identify the changes and the full policy was available in print form on request

#### 3.2.2 Deputy Office Questionnaire

A questionnaire (Appendix D) with 2 quantitative and 3 qualitative questions was shared for completion. Questions were designed to gather information which could be used to measure the impact the proposed changes would have on service users and also to invite feedback on the Deputy Office services.



### 3.2.3 Deputy Office Policy

The full version of the Deputy Office Policy was available on request (print) and online as part of this consultation (Appendix F).

### 3.3. *How we consulted*

A six-week public consultation ran from 3<sup>rd</sup> October 2016 to 14<sup>th</sup> November 2016. The consultation was primarily targeted at existing services users, and their family/friends or nominated advocates known to the Deputy Office. The rationale for targeting the consultation was that these were the groups in the best position to inform RBC of the impact of the proposed changes.

A total of 386 consultation packs were distributed by post to the target groups. The consultation was also promoted to the broader community, voluntary and provider networks via the Adult Social Care contacts. These groups were invited and encouraged to respond. Contact details for the Deputy Office Manager were advertised for anyone who wanted to discuss the consultation in more detail.

All deputy and appointee service users that Deputy Officers deliver an allowance to in the community were also consulted face-to-face, and either a Deputy Officers or Customer Service Officer consulted face-to-face with all service users who came into the Civic Centre to collect their allowance during the consultation period. In total this was 108 (51.81%) existing service users.

For the service users that came into the Civic Offices to collect their allowances (Mondays, Wednesdays and Fridays) Officers arranged to have an additional booth and a separate room so that Officers could discuss the consultation with the service user in private and explain how it might affect their personal financial circumstances.

Officers were able to check current balances of service users account to best advise them how the changes in the consultation would affect them financially. As the changes to the charging mainly affected the appointee's Officers were able to explain what they are currently charged annually and a prediction of what they would be charged with the changes. Deputy Service users were informed of the services that were now chargeable for example property maintenance and checks and also of the disbursement fees

Officers asked all the service users whom they saw in this way to sign a form to confirm that they had been informed of the consultation and had an understanding of the consultation and proposed changes and that they had been given an opportunity to have questions answered. Service users were also given a consultation pack and were encouraged to complete the feedback form and were signposted to independent support to help them respond if they felt they needed it.

For the 58 appointee service users who do receive their allowance in person or who did not come in to the Civic Offices during the consultation period, consultation packs were posted to them and to appropriate representatives such as family/friends or advocates (where known to the Deputy Office).

For deputyship service users who reside in residential/nursing/sheltered accommodation, visits were arranged and regardless of the capacity of the individual, people were informed of the consultation. This is in line with the practice of Deputy Office team. Officers requested a care worker to witness the exchange. Officers also consulted with appropriate family/friends,

advocates and other professionals involved with deputy service users where they were available.

158 consultation packs were sent or emailed out to friend/family, advocates and professional involved with existing service users. A self-addressed envelope was included in the consultation packs.

### 3.4 Who responded

By the close of the consultation on 14<sup>th</sup> November, 38 formal responses had been received. All but one Deputy Office service user had been contacted either in person or by post.

35 (92%) of respondents completed and return the paper copies of the questionnaire, 3 (8%) respondents completed the online questionnaire. There were minor variations between hard copy questionnaires and the online version and therefore where the variations occur this will be highlighted within the following commentary.

Informal verbal feedback was also received by Deputy Office and Customer Service Officers during visits/contacts with existing services users. Service users and representatives were encouraged to complete the consultation forms and were signposted to support available to help them.

#### 3.4.1 About You

There was very little variance in the number of responses received from women (44%) as from men (52%), which is as expected given the even distribution of existing service users. Over half (52%) of responses came from people aged 55 years and over, and just over 15% were from people under the age of 44.

Nearly two thirds of respondents identified as *White* (65.79%) / *White - Other* (2.63%). 7.89% identified as *Black/Black British Caribbean*. 5.26% identified as *Asian/British Asian (Indian/Pakistani/Chinese/Bangladeshi)* or *Other*. 2.63% identified as *Black/Black British - African*. 2.63% did not identify with any ethnic group and 7.89% did not respond.

Most respondents identified as *Christian* (36.84%), followed by *no religion or preferred not to say* (21% respectively). Just over 10% did not respond.

73.68% of respondents identified as *heterosexual*, just over 10% preferred not to say and over 15% did not respond.

The following *About You* responses are percentages from responses received by hard copy questionnaires. Of the 35 hard copies questionnaires returned:

- 57.14% considered themselves to have a disability, long-term health condition or age-related care or support needs, 17.14% did not and 25.71% did not respond.
- 8.57% said they helped look after someone who has care needs - on an informal/unpaid basis, 60% answered *No* and 31.42% did not answer.
- 28.57% answered *No, I am not in contact with Adult Social Care*; 2.85% *Prefer not say*; 31.42% answered *Yes, I currently receive services from*

*Adult Social Care*, 2.85% answered *Yes, I am a family member of someone receiving services* and 34.28% did not respond.

- 5.71% respondents were *a volunteer in a voluntary, community or faith organisation*, 2.85% respondent was *employed in the public sector*, 51.42% respondents were *not in paid employment* and 40% did not respond.

### 3.5 Questions

39.47% (15) respondents said the changes RBC is considering would affect them; 50% (19) said no; and 10.53% (4) did not respond. As the proposed changes are likely to have a greater impact on appointees than on deputy's service users the percentage of responses generally reflects the distribution of service users i.e. as just under half of the current Deputy Officer service users are appointees it is reasonable to expect only half of respondents to acknowledge that the changes would affect them.

Respondents were invited to tell us *how* they would be affected by proposed changes. We received 16 responses in total to this question. 93% (15) answer yes to part 1 of the question (above), and one did not respond to the part 1.

The theme across the responses received was general acknowledgment that people would have to pay more for the service/s they received, with some commenting that this meant they would have less money for other things. Although answering *yes* to part 1, one respondent felt the changes would not affect them '*much*'. Two respondents commented that they were already on restricted incomes and that the proposed changes would result in their income being stretched even further, one of these respondents also commented that their benefits had already been impacted on by other government cuts. One respondent raised a concern that they were being asked to pay for a service they could not afford.

84.21% (32) provided a response to the question what they thought the most important part of the service provided by the Deputy Office. 31 (81.57%) of respondents had what could be described as a positive response to this question. Important aspects included:

- safeguarding vulnerable adults who are unable to manage their financial affairs;
- reducing worry about finances;
- ensuring bills are afforded, paid and paid on time;
- support to budget for important things in life (bills, holiday's, furniture),
- reducing the burden on services users and families,
- that it is a safe and reliable service,
- offered property management support,
- offers general practical support and advice and
- that the service is friendly and helpful and there is consistency with staff.

One of these respondent went on to feedback that an individual's finances should not be a way of '*re-appropriating the running costs of the Deputy Office*'. One respondent felt there was no need for the local authority to deal with lasting power of attorneys and deputy orders for property and financial affairs and particularly at a cost to council taxpayers.

89.47% (34) of respondents felt it was important to keep the Deputy Office service in Reading, 7.89% (3) said it was not important and 2.63% (1) did not answer. 60.52% (23) of these

respondents went on to provide comments on the proposed charges to charges, or on the deputy office service in general.

The 7.89% (3) respondents that answered that it was not important to keep the service in Reading, provided the following comments on the service:

*Respondent 1: 'The deputy service can be organised by the Court of Protection and solicitors; it is certainly overseen by them and the visitors they appoint. There is no statutory reason why the local authority has to be seen to act impartially when making cuts in budgets. A lean local authority is what is needed, providing only the statutory services.'*

*Respondent 2: 'I think personally that the service is just another way for 'Nosy parents' to be able to keep a hold of the 'reigns' of their 'GROWN UP CHILDREN, and so they can feel like they are 'STILL NEEDED.' [sic]*

*Respondent 3: 'My family would say yes. I didn't like it when they cancelled my account. I have been with the bank 16 years. I also didn't like it because my direct debit to Curry's stopped. I disagree with being charged for this service. I don't think it is right and I don't have enough money. I also think it is unfair to charge me for a service I have no choice about, because I am under court protection. My family thinks it is wrong to charge people for a service that they need because of a disability they have.' [sic]*

Most of the other 23 respondents to this question provided what could be described as positive comments on the Deputy Office services. There was a general expression of the value of the service with respondents writing 'it's helping me', 'it's important to me', 'without Deputy's I could lose my home', 'would have difficulty managing my money', 'vital service', 'be lost without it', 'helps avoid cowboy builders'.

One respondent fed back that it was hard to comment unless the rates were published with the consultation. They had answered other questions on the survey. The information they referred to was accessible.

Two respondents advised that paying for the service would not be their preferred option and a further two wrote that they felt the proposal was fair.

Two respondents wrote that the service needed to stay local to Reading, one expanded their feedback to say they did not support any outsourcing or consultants. This is not one of the proposed changes. The same respondent also expressed concern about individuals receiving not being treated as a 'cash cow'. The same respondent had expressed concerns about charging people on restricted incomes in the feedback in question one.

#### 4.0 Summary of reactions and outcome

Nearly 90% (34) of respondents felt it was important to keep the Deputy Office service in Reading and over half of these respondents felt the service was good, efficient and important service for Reading residents. Many expressed how the service was valued by them individually and that the staff were friendly and approachable and that the Deputy Office provided them with practical support which helps them manage and protect their finances (or the finances of vulnerable adults). For some people they said this included helping them maintain a level of independence and a sense of security.

People acknowledged that the proposed changes meant they or people they support could be asked to pay more and therefore have less money. A few expressed that this would not be

the preferred option or, should not be considered at all, but this needs to be read alongside the strong majority view of the importance and value of retaining the service.

There were a couple of comments which questioned RBC's need to charge at all for this service, particularly for people who are already on a limited income who have been impacted on already by central government cuts. One respondent felt that it was not necessary for the Council to provide the service in general as there were other options, such as local solicitor services.

Informal feedback received by Deputy Officers during the face-to-face discussion about the consultation mirrored much of the formal responses received through the questionnaire. Generally service users expressed that they were not happy having to pay, or pay more (dependent on their circumstances) but they wanted to have access to a local Deputy's Office so on balance appeared to accept the rationale for the proposed changes.

Some service users did not have or express an opinion, and in cases where service users were unable to understand the consultation, where possible appropriate representatives such as family/friends and advocates were contacted to respond to the consultation. Many representatives spoken to by the Deputy Office Manager expressed a similar view in that they accepted the rationale for the changes and the importance of retaining a Deputy Office in Reading but that charging would not be their preferred option. Everyone who contacted the Deputy Office was encouraged to formalise their views by completing and returning the consultation questionnaire.



## Provide basic details

Name of proposal/activity/policy to be assessed

Directorate: Adult Care & Health Services

Service: Deputy Office

Name and job title of person doing the assessment

Name: Suzie Watt

Job Title: Wellbeing Programme Officer

Date of assessment: 12/9/2016 and 1/12/2016

## Scope your proposal

**What is the aim of your policy or new service/what changes are you proposing?**

To revise and update the RBC Deputy Office Policy and Procedures so as to make a number of changes relating to fixed rates fees and charges element that are applied to services and the threshold at which they can be applied.

The proposed changes include:

- the Council charging for all Deputy services which they are legally able to charge for under the direction of the Court of Protection/Office of the Public Guardian.
- the Council aligning the deputy and appointee services and fees for these.
- introducing a flat rate Disbursement fee where Deputy Officers' time is used to support and meet the needs of an existing client where no other cost effective, suitable services or arrangements can be identified despite all reasonable attempts or, where requested and permitted by existing service users.
- introducing an affordability cap, so that people for whom the service looks after less than £750 are not charged.

**Who will benefit from this proposal and how?**

Reading residents and current service users will have clarity on the Council intends to retain the service and make it a financially sustainable service. It will provide transparency on the fees and charges for the service people receive and what people can reasonably expect from the service. It will also allow people to see if and how this fits within their financial plans.

The Council will be able to demonstrate to the Court of Protection that RBC is compliant with the published guidance.

The Council will create equity in fees and charges applied for all services that the Deputy Office provides, irrespective of whether a person requires deputy or appointee services.

The Council will also have a discretionary threshold which protects service users from undue hardship as a result of paying for the services.

**What outcomes does the change aim to achieve and for whom?**

It will result in an updated Deputy Office Policy for the Council. The existing Deputy Office Policy was published in 2009 and there are variations between current practice and the policy. The fees and charges determined by the Deputy Office and the OPG/CoP have also changed in that time. Updating the policy will result in the Council being transparent and compliant in its role and responsibility as corporate appointee or deputy.

An updated Deputy Office Policy will create equity in fees and charges for services irrespective of whether we act as a corporate appointee or deputy.

It will significantly increase the probability that RBC will have a financially sustainable Deputy Office service available to eligible Reading residents. This will result in RBC being able to support the most vulnerable adults with financial affairs in the absence of any other suitable alternative.

**Who are the main stakeholders and what do they want?**

Existing Deputy Office service users, their family/friends, advocates or professionals involved (paid/unpaid) in their life have been the main stakeholders in the consultation. The majority have expressed support for retaining a Deputy Office and recognise the rationale for the proposed changes, however having to pay more would not be their first option.

Adult Social Care staff, community and voluntary sector organisations and private sector organisations involved in supporting adults with social care needs were invited to respond. No written responses were received from representatives from these groups however individuals who have had contact with Deputy Officers throughout the consultation expressed their support for RBC retaining the Deputy Office and recognised the need to make it financially sustainable.

**Assess whether an EqIA is Relevant**

How does your proposal relate to eliminating discrimination; promoting equality of opportunity; promoting good community relations?

Do you have evidence or reason to believe that some (racial, disability, gender, sexuality, age and religious belief) groups may be affected differently than others? (Think about your monitoring information, research, national data/reports etc.)

No - by default deputy or appointee services are only available to people who lack capacity or have limitations to their ability/resources to manage their financial affairs **and** have no suitable alternative or provision that can assist them. RBC only ever undertake this role under the direction of a Court Order (deputyship) or on successful application to the Department of Work and Pensions (appointeeship) and therefore will only act within the framework of these agreements. The proposed changes will have no impact on this.

RBC will continue to carry out their deputy roles and responsibilities in line with the best practice published by the Office for the Public Guardian/Court of Protection and RBC will continue to be audited by them.

Many appointees have the capacity and understanding to make decisions as to whether they appoint or retain using the Deputy Office money management service. In absence of guidance from the Department of Work and Pensions the Deputy Office apply the best practice in carrying out their appointee work.

The proposal aligns the fees and charges applied for the service across both groups of service users (deputy and appointees) and will continue to use the charging directive from the Court of Protection as a guide for fees and amounts.

Is there already public concern about potentially discriminatory practices/impact or could there be? Think about your complaints, consultation, and feedback.

Yes - some concern about the proposed changes was received via the consultation. A small number of respondents felt that the proposed changes were unfair. This related to RBC 'imposing' a charge on individuals who already had limited incomes and had been impacted by other central government cuts. Some respondents also expressed that they did not feel people with a disability should be charged at all for receiving a service that they had no choice but to access (due to lack of capacity). However, the Council is under a duty to plan for financial sustainability, is allowed to apply fees and charges for non-statutory services, and furthermore RBC have used the Court of Protection guidance as a guide for setting these.

If the answer is Yes to any of the above you need to do an Equality Impact Assessment.

If No you **MUST** complete this statement

An Equality Impact Assessment is not relevant because:



Signed (completing officer)	Date
Signed (Lead Officer)	Date

Assess the Impact of the Proposal

Your assessment must include:

- Consultation
- Collection and Assessment of Data
- Judgement about whether the impact is negative or positive

Think about who does and doesn't use the service? Is the take up representative of the community? What do different minority groups think? (You might think your policy, project or service is accessible and addressing the needs of these groups, but asking them might give you a totally different view). Does it really meet their varied needs? Are some groups less likely to get a good service?

How do your proposals relate to other services - will your proposals have knock on effects on other services elsewhere? Are there proposals being made for other services that relate to yours and could lead to a cumulative impact?

**Example:** A local authority takes separate decisions to limit the eligibility criteria for community care services; increase charges for respite services; scale back its accessible housing programme; and cut concessionary travel.

Each separate decision may have a significant effect on the lives of disabled residents, and the cumulative impact of these decisions may be considerable.

This combined impact would not be apparent if decisions are considered in isolation.

## Consultation

How have you consulted with or do you plan to consult with relevant groups and experts. If you haven't already completed a Consultation form do it now. The checklist helps you make sure you follow good consultation practice.

[My Home > Info Pods > Community Involvement Pod - Inside Reading Borough Council](#)

<b>Relevant groups/experts</b>	<b>How were/will the views of these groups be obtained</b>	<b>Date when contacted</b>
Deputy Office Service Users	Face to face; Consultation Packs (Post) with an option of online	3 <sup>rd</sup> October 2016 - 14 <sup>th</sup> November 2016
Family/Friends, Carers (paid/unpaid), advocates, professional representatives of Deputy Office Service Users	Consultation Packs (Post) and Online (via email)	3 <sup>rd</sup> October 2016 - 14 <sup>th</sup> November 2016
Community, Voluntary and Private Sector	Online (via email)	3 <sup>rd</sup> October 2016 - 14 <sup>th</sup> November 2016

## Collect and Assess your Data

Using information from Census, residents survey data, service monitoring data, satisfaction or complaints, feedback, consultation, research, your knowledge and the knowledge of people in your team, staff groups etc. describe how the proposal could impact on each group. Include both positive and negative impacts.

(Please delete relevant ticks)

### **Describe how this proposal could impact on Racial groups**

There is no evidence the change will impact differentially across racial groups.

Is there a negative impact? No

### **Describe how this proposal could impact on Gender/transgender (cover pregnancy and maternity, marriage)**

There is no evidence the change will impact differentially across on gender/transgender or by reason of pregnancy/maternity or marriage.

Is there a negative impact? No

### **Describe how this proposal could impact on Disability**

The services under consideration are ones which are accessed by people with disabilities rather than by the general population. Any proposal to change the service therefore carries the potential of a differential impact on persons with protected characteristics by virtue of disability.

The proposal will impact on individuals with a mental, physical or learning disability that require the support of Deputy Office services. Deputy Office services are only available to individuals who are unable to manage or make decisions around their financial affairs and do not have suitable alternatives which can help them meet this need. The Council will only ever act on behalf of individuals under the directive of the Court of Protection or the Department of Work and Pensions. The proposal will not change this. The Deputy Office will continue to carry out their roles and responsibilities in line with the best practice guidance and the proposal will not change this. The service itself will not therefore change.

Consultation feedback has not demonstrated any likely change in take up of the service by reason of the proposed changes to charging. However, some of those who use the service currently will have less disposable income as a result of charges being introduced.

Is there a negative impact? Yes

### **Describe how this proposal could impact on Sexual orientation (cover civil partnership)**

There is no evidence the change will impact differentially on people on the basis of their sexual orientation.

**Is there a negative impact? No**

**Describe how this proposal could impact on Age**

Although the majority of people accessing the service currently are older than the average Reading resident, there is no evidence that the proposed change would impact differentially on older people. It will not impact on age.

**Is there a negative impact? No**

**Describe how this proposal could impact on Religion on belief?**

There is no evidence the change will impact differentially across religious / belief groups.

**Is there a negative impact? No**

## Make a Decision

If the impact is negative then you must consider whether you can legally justify it. If not you must set out how you will reduce or eliminate the impact. If you are not sure what the impact will be you MUST assume that there could be a negative impact. You may have to do further consultation or test out your proposal and monitor the impact before full implementation.

Tick which applies (Please delete relevant ticks)

1. **No negative impact identified**      Go to sign off

2. **Negative impact identified but there is a justifiable reason**

The provision of appointeeship and deputyship services are not statutory duties for local authorities, under the Care Act (2014) or otherwise. However, the provision of these services is recognised good practice.

The current RBC Deputy Office policy & procedures were published in 2009. The level of charges outlined in the Policy were applicable to deputy cases only and the Office have applied local threshold to charging and therefore has not been charging as allowed under the Court of Protection (CoP) and as specified in the Policy. The impact of the proposed changes to the Policy will result in some customers (appointees) paying more each year for RBC to manage their money and for other customers paying a fee for support that RBC had not historically charged for - for example, property maintenance. Across the UK, the CoP Practice Direction (Fixed Costs) is usually adopted for the deputyship service by most other local authorities, and charging for appointee services is by local determination. Most local authorities charge on a full recovery cost basis.

In the absence of charging in line with the Court of Protection (CoP) and on a full recovery cost basis, Reading Borough Council would have to consider the sustainability of the local service provision. The impact of not having a Deputy Office service available to local Reading residents would outweigh the negative impact of proposed changes. The likelihood is any other alternative provision would be at a higher cost to the individual. This is evidenced in the fixed charging directive from the Court of Protection whereby Solicitors are already able to charge higher amounts for the same service.

Reading Borough Council has applied a local discretionary amendment to the fixed fees and charges for the Deputy Services. Whilst these have primarily been aligned with those published by the Court of Protection, the Council proposals outlines that all fees and charges for services are applied upon affordability and are only chargeable to all deputy office clients who have a net savings and accounts in credit of £750 or more. In addition,

in cases where undue hardship may be caused by the payment of any fees, service users may be exempt on application to Reading Borough Council's Deputy Authorising Officer.

**Reason**

**3. Negative impact identified or uncertain**

**What action will you take to eliminate or reduce the impact? Set out your actions and timescale?**

**How will you monitor for adverse impact in the future?**

Adverse impacts will be monitored through the financial planning with each individual service user of the Deputy Office - both existing and new. If the changes to the Policy are adopted in their entirety by Reading Borough Council, Deputy Officers, advocates and representatives will still act in the best interest of service users and will fully support individuals to apply for exemptions should there be evidence that supports the need for this.

Signed (completing officer)



Date 01/12/2016

Signed (Lead Officer)

Date

# Deputy's Office Policy

Date published	TBC
Approved by	TBC
Author	Updated by (1) Marie Roeton & (2) Suzie Watt
Service	(1) Deputy Office and (2) Wellbeing Team
Directorate	Adult Care and Health Services
Review date	tbc



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## 1. Introduction

Every adult has the right to manage his or her own money and affairs. However, this may be difficult for some individuals, due to illness, disability or an accident.

Where an individual becomes unable to manage their own affairs without first granting a lasting power of attorney (a legal way to give someone else the power to manage their financial affairs if they cannot) the matter can be taken to the Department of Work and Pensions or the Court of Protection to appoint someone as responsible for helping the individual with financial management. In most cases, family members, friends or a solicitor will undertake this task. However, where no suitable arrangement can be made with others, Reading Borough Council can undertake this role.

Reading Borough Council (RBC) offers services through its *Deputy's Office Team*, to help individuals manage their financial affairs. Support is offered by undertaking a role as either an Appointee or Deputy. An **Appointee** usually works, with the individual's consent and instruction, to manage their benefits and financial affairs, and can do this on their behalf if they lack capacity if authorised by the Department of Works & Pensions (DWP). A **Deputy** appointed by the Court of Protection has a legal power to manage the individual's finances because they lack the mental capacity to do so themselves.

RBC Adult Care and Health Services undertake the roles of Appointee and Deputy of the Court of Protection in a voluntary capacity. **There is no statutory obligation or duty for local authorities to offer this service.** However RBC believes that this service is important to ensure that vulnerable adults continue to be protected and their best interests identified.

Under the National Assistance Act (1948), RBC has a duty to protect an individual's property when they are hospitalised or removed/relocate from their home under this same Act. RBC's duty to protect property is actioned only if it appears that there is a danger of loss or damage to a client's property because of their absence and no other suitable arrangements have been made.

This document sets out the policy of RBC on managing individual adult's finances and explains its roles of:

- **Appointee** of Department of Work and Pensions;
- **Deputy** of the Court of Protection; and
- **Property protection** under the National Assistance Act (1948).

The Policy will be accompanied by procedures and practice guidance, to support the *Deputy's Office Team* to successfully undertake these roles.

## 2. Context

The **Mental Capacity Act (2005)** provides the framework for acting and making decisions on behalf of individuals who lack the mental capacity to do these acts or make these decisions for themselves.<sup>1</sup> RBC and its staff work in a professional capacity to support people who lack mental capacity, and therefore have a duty to comply with this Act. The legal framework provided in the Act is supported by the **Code of Practice**, which provides guidance and information to help RBC work in the best interests of adults who lack capacity. RBC's *Policy for Appointee of DWP and Deputy of the Court of Protection Services* and its relevant procedures have been developed in accordance with the legislation above and the Code of Practice and adopts the presumption of capacity and the principle of equal consideration, as quoted from the Code<sup>2</sup>:

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him them to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because they make an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in - their best interests.
5. Before the act is done, or the decision is made, regard must be paid as to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

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<sup>1</sup> Department for Constitutional Affairs (2007). *Mental Capacity Act 2005 Draft Code of Practice*. p.12

<sup>2</sup> *Mental Capacity Act (2005) Code of Practice p.19 (2007)* H25

Section 45 of the Mental Capacity Act establishes a special court, one that is a “Superior Court of Record” which can set precedent and is known as the **Court of Protection**, with a new jurisdiction to deal with decision-making for adults who lack capacity. The Court has the power to make decisions and **appoint Deputies** to make decisions and manage financial matters in the best interests of individuals that lack capacity.

The **Office of the Public Guardian (OPG)** is part of the *Department of Justice* and is separate from the Court of Protection (CoP) and as is the Court Funds Office. The OPG’s aim is to:

- Promote and protect the financial and social well-being of its clients; and
- Guide and work with the people who are appointed to look after its clients financial affairs (Deputies or Lasting Power of Attorneys).

The Government **Department of Work and Pensions (DWP)** has the jurisdiction to assign Appointees, to collect individuals’ benefits and (where they have capacity) to work under the individuals’ instruction to manage their financial affairs.<sup>3</sup>

In April 2016, RBC agreed to the updated version of the ***Safeguarding Adults Multi-Agency Policy and Procedures for the Protection of Vulnerable Adults from Abuse***. These policy and procedures were originally published in June 2006 and are a collaborative effort across Local Authorities of Berkshire, National Health Service Trusts, Berkshire Care Association and Thames Valley Police. This policy highlights RBC’s commitment to working in partnership to enable vulnerable adults to live and receive services in an environment that is free from prejudice and safe from financial and other forms of abuse. The procedures assist staff to:

- Identify indicators of abuse;
- Investigate and report potential instances of abuse; and
- Arrange appropriate support for vulnerable adults.

The *Safeguarding Adults Multi-Agency Policy and Procedures for the Protection of Vulnerable Adults from Abuse* dovetails with this *Policy for Appointee of DWP and Deputy of the Court of Protection Services* and its relevant procedures to ensure a holistic approach to protecting vulnerable people in Reading Borough.

### 3.1 Eligibility

RBC will consider an individual’s eligibility for its Appointee or Deputy service where individuals have not already made arrangements for a lasting power of attorney (LPA).

Sometimes, a person is aware that their mental ability may deteriorate in the future and will make provision to appoint an attorney. RBC can support nominated LPA donee to register as an Attorney (with the Court of Protection), to act on the individual’s behalf in the event that they become incapacitated. In these instances, RBC would not become involved in the role of managing the individual’s financial affairs.<sup>4</sup>

RBC’s eligibility criteria for Appointee and Deputy services are detailed in Table 1.

**Table 1: Eligibility for RBC Appointee and Deputy Service**

Appointee	Deputy of Court of Protection
Welfare benefits are principle source of income and savings are minimal.	Savings and/or assets: <ul style="list-style-type: none"> <li>• Order Appointing a Deputy for Property &amp; Affairs (minimal savings but each client assessed on individual circumstances)</li> <li>• Single Order – a specific direction issued to assist a client (e.g. sign a tenancy) we only apply for Property and Financial Affairs (Tenancy Single Orders are handled by RBC Legal Department and social</li> </ul>

<sup>3</sup> The DWP can give authorisation for an appointee to act for a client who lacks capacity. See DWP BF56 form “Application for appointment to act on behalf of someone else”.

<sup>4</sup> Office of the Public Guardian (2007) *Lasting Power of Attorney guidance booklets*

	workers).
Assessed as unable to act for themselves in claiming and managing benefits to which they are entitled, and benefits are their principle source of income.	Medically assessed as having lost mental capacity under the Mental Capacity Act (2005) and therefore unable to manage their financial affairs independently.
Willingness to cooperate with the appointee to work in their best interests.	Where possible and appropriate, the individual should be aware that a Deputy is being appointed to act on their behalf.
A solicitor does not already undertake the Appointee/ Deputy role and/or the estate value could not offer a commercial incentive.	
No relative or friend who is able, appropriate and willing to undertake the role.	
Assessed (by social worker and Deputy) as having a clear and specific reason for requesting the service and likely benefits are evident. The final decision rests with the official Deputy for RBC who is the Holder of the Post of Director of Adult Care and Health Services.	
The Deputy's Office Department has the capacity to undertake the anticipated work to the required standard.	
The person is a permanent resident of and pays their Council tax to Reading Borough.	

In all other circumstances, the role of Appointee/ Deputy will be undertaken by a friend or relative, or referred to a solicitor external to RBC.

### 3. Reading Borough Council Roles

Some people in Reading Borough experience mental or severe physical disabilities, which may mean that they are unable to act for themselves and need help to manage their financial affairs. RBC's *Deputy's Office Team* offers support through Appointee and Deputy Services.

#### 3.1 Deputy Office Team

The Deputy's Office Team consists of a Manager, a Deputy's Officer, a Deputy's Administrator and a part-time Deputy's Administrator, who work together to offer support to eligible individuals. This number of staff is able to serve a maximum of 250 individuals in total:

- Coordinate applications for Appointee and Deputyship;
- Establish Appointee and Deputy status and manage individual's financial affairs as per RBC's procedures and practice guidance;
- Support the nominated Deputy in his/her role;
- Undertake tasks to ensure that vulnerable adults' property is protected;
- Allocation/provision of personal allowances for each individual.

#### 3.2 Nominated Deputy for Reading Borough Council

The Court of Protection appoints an individual to act as Deputy for vulnerable adults. Deputy status is appointed in the name of the nominated individual, **not** the name of RBC or the Department.

RBC has nominated the individual in the post of Director of Adult Care and Health Services to act as Deputy for eligible individuals in Reading Borough.

To change the nominated Deputy for RBC, the Director of Adult Care and Health Services and Lead Councillor for Adult Care and Health Services must formally approve the new arrangements in writing.

RBC's roles in providing its Appointee and Deputy Services are detailed in these sections

### ***3.3 Role of Appointee***

RBC's role as an Appointee (of the Department of Work and Pensions) is to, with the consent of the person:

- Receive Benefits and Pensions from:
  - Department of Work and Pensions;
    - Council (e.g. Council Tax or Housing Benefit); and
    - Private or Occupational Pension.
- Notify the Department of Work and Pensions if there is a change to the individuals' personal or financial circumstances, which may affect his/her benefits or pension.
- Arrange for a benefits check, to ensure that the individual receives all of the benefits to which they are entitled, and obtain them where required.
- Use the individual's resources to make regular provision for their personal requirements. Arrangements can be made with the individual directly, or through their carer, where appropriate.
- Arrange for creditors (including utilities companies) to be paid on time from the individual's bank account.
- Maintain detailed accounts and receipts of the individual's income and expenditure, as required by the Department of Work and Pensions.

### ***3.4 Role of Deputy for Court of Protection***

RBC's role as a Deputy of the Court of Protection is to:

- Act in the best interest of the client at all times;
- Look after the client's property;
- Open a Deputy bank account;
- Claim all benefits that are due to the client;
- Take out insurance which covers the client's income and spending during the term of the Deputy arrangement; take out home contents insurance;
- Ensure that the individual's money is being used to give him or her the best possible quality of life;
- Ensure all income is collected and all bills are paid on time;
- Keep all important documents and other valuable items in a safe place;
- Keep any property secure, in a reasonable state of repair, and adequately insured;
- Deal with the client's income tax and other tax matters;
- Tell the Driver and Vehicle Licensing Agency if the individual holds or applies for a driving licence;
- Tell the OPG if:
  - There are any changes to the individual's financial circumstances, for example, if he or she inherits any property or money;
  - There is a likelihood of the individual getting married, divorced or involved in other legal proceedings;
  - The individual is planning to make a will;
  - There is the possibility of the client recovering;

- The individual dies;
- There are any changes to the individual's address and accommodation fees
- Cooperate with any Court of Protection Visiting Officer.
- Get agreement from the OPG before dealing with any savings or investments;
- Keep all orders and directions the Court makes;
- Pay the relevant Court of Protection fees from the individual's funds when necessary.
- Annual visits to check smoke alarms, to obtain gas safety certificates, to obtain electrical test certificates, and take inventories.

#### 4. Managing potential conflicts of interest

In undertaking the role of Deputy, the nominated individual works under the guidance of the Court of Protection, and acts independently of RBC.

The Deputy will work in the best interests of the vulnerable individual and in doing so there may be potential for conflicts of interest to arise between their RBC Deputy role, and their role as a RBC employee.

The Deputy will have responsibility for identifying potential conflict of interests. Conflict of interests may include instances where the Deputy must act on behalf of the individual to enter arbitration or take legal action against RBC.

In cases where a potential conflict of interest is identified, the Deputy will seek guidance from the Court of Protection, and act in accordance with the Court's direction.

After the Deputy has sought guidance from the Court he/she must notify the Director of Housing and Community Care and discuss the action required to mitigate the conflict of interests and reach a resolution to the individual's issue.

#### 5. Court of Protection Orders

The role of the Court of Protection is to make decisions in cases where individuals have lost mental capacity to manage their financial affairs. The Court has the power to issue one of two orders:

- Order Appointing a Deputy for Property & Affairs.<sup>5</sup>
- Single Order of the Court

##### 5.1. Order Appointing a Deputy for Property & Affairs

The Court of Protection issues an Order Appointing a Deputy for Property & Affairs which will give the Deputy the authority "to make decisions on behalf of [the Client] that he/she is unable to make for him/herself in relation to his/her property and affairs subject to any conditions or restrictions set out in the order".<sup>6</sup>

Managing an individual's financial affairs usually goes further than receiving income. The aim of the court order is to assist the Deputy in the management of all the financial interests of the individual. As a result, in practice the Deputy's duties will include the authorisation to:

- Receive all or part of the client's money that is held in bank or building society accounts;
- Pay any doctor's, solicitor's or Court fees; nursing home or other charges, debits and sundry expenses;
- Sell the client's property or land, or end a tenancy agreement;
- Sell or dispose of a client's furniture or household belongings;
- Look after life insurance policies;
- Provide accounts of how the client's money under RBC's control have been dealt with;

<sup>5</sup> Adapted from Office of the Public Guardian (2007). *Making an application to the court of Protection*.

<sup>6</sup> Adapted from an Order Appointing a Deputy for Property & Welfare issued 21/1/08

- Carry out any other actions in the client’s best interests;
- Make sure documents, such as the client’s will or share certificates, are kept safely.

## 5.2. Single Order of the Court

The Court of Protection may make a Single Order when the Deputy requires a direction that is not specified in the Order Appointing a Deputy for Property & Affairs. Examples could be:

- Signing a tenancy agreement on the client’s behalf.
- Direction regarding trusts.
- The selling of shares.
- Any financial investment.

The need to request a Single Order from the Court can arise when there has been a change in the client’s circumstances and the direction specific to necessary action is not contained within the original direction. (e.g. client is moving from owner occupied home to residential care and the property needs to be sold to fund the placement.)

In such instances the Deputy would apply to the Court for a Single Order to obtain guidance and the authority to act on the client’s behalf and carry out this action.

## 6. Property Protection

Councils have a legal duty to provide protection of property under the National Assistance Act 1948 (section 48). This applies where a person is admitted to hospital, residential or nursing care or removed from their home and relocated under the National Assistance Act and no one has been identified as being able to protect the property on behalf of the client.

In Reading Borough, where an individual does not have other suitable arrangement for protecting their property, the RBC Deputy’s Office Team will assess the risk of loss of, or damage to, individuals’ property, and take reasonable steps to protect it. **Care managers will not undertake this role.**

### *RBC’s Property Protection Principles*

Under the National Assistance Act (1948), RBC has a duty to:

- Act in the best interest of the service user at all times.
- Look after the service users property, including making provision for pets;
- Ensure that the service user’s money is being used to give him or her the best possible quality of life.
- Keep any property secure, in a reasonable state of repair, and ensure that adequate insurance is in place.
- Keep all important documents and other valuable items in a safe place.
- Take reasonable steps to prevent or mitigate any loss or damage.

### *RBC’s roles in Property Protection*

The services provided by RBC under the Act are as follows:

- Securing service user’s property.
- Conducting inventories of service users property.
- Storage of service user’s property; if the client has funds.
- Arranging for the boarding of pets;.

- Arranging the valuation, sale or disposal of service user’s property.

RBC has developed procedures and practice guidance to support staff to fulfil its duty of Property Protection under the National Assistance Act (1948).

## 7. Fees and Charges

### Deputyship

Deputyship clients can expect to be charged in line with the practice direction [19B Fixed costs in the Court of Protection](#). This is subject to change, when changes are approved and published by the Office of the Public Guardian, the deputy office will give 28 days’ notice before changes to charges will take effect. The Deputy’s Office Policy will be updated during the annual review.

The Council will also seek disbursement for services that a deputyship client would otherwise pay for had they retained capacity. Please see Table 2 Service Fee – *Disbursement*, for more information.

### Appointeeship

The DWP do not have formal guidance on charges or fees for corporate appointeeship services, however they do state that any payment for services received need to be proportionate and reasonable. RBC have referred to the Care Act (2014), the Care and Support Statutory Guidance and the Court of Protection guidance.

In cases where RBC become the approved corporate appointee, the client can expect to pay for the service they receive. The amounts are based on the most recently published Practice Direction 19B fixed charged costs in the Court of Protection – See Table 2.0 for more information. Amounts paid will be subject to change. When changes are made for example when published by the OPG, the Deputy’s Office will give 28 days’ notice to all clients before changes to charges will take effect. The Deputy’s Office Policy will be updated during the annual review.

Table 2. Service Fee

Category	Detail	An amount not exceeding
Category I	<p>Work up to and including the date upon which the DWP appoint RBC as the corporate appointee.</p> <p>Clients can expect to pay this once in their lifetime where the Council act on their behalf, irrespective of the service they receive from the Deputy’s Office, for example if an appointee transitions to a deputy service.</p> <p>If an application to the CoP is made to change a client’s nominated deputy, then the client will be charged again in the CoP guidance.</p> <p>Existing appointee clients(prior to the 31<sup>st</sup> December 2016) can expect to pay this only if RBC apply to the CoP to become their deputy.</p>	£670
Category II	<p>Annual money management fee where RBC acts as corporate appointee for benefits:</p> <p>(a) For the first year:</p> <p>(b) For the second and subsequent years:</p> <p>Where the net savings of an individual are below</p>	<p>£700</p> <p>£585</p>

	<p>£16,000, the local authority corporate appointee may take an annual management fee not exceeding 3% of the client's net savings on the anniversary of the DWP approving the corporate appointee application.</p> <p>Clients whom transition from appointee to deputyship services will have their anniversary date moved to the date of the court order and pro-rata calculation will be made for the annual management fee up to the date of the court order. Clients can expect not to pay any more than an annual fixed management rate in any one calendar year. The years of the annual management fees will be continuous and not reset where clients transition from one service to another.</p> <p>Existing appointee (prior to the 31<sup>st</sup> December 2016) can expect to be charged the 2<sup>nd</sup> year and subsequent fee for their lifetime on an anniversary date identified either in an agreed financial plan or as change comes into effect.</p>	
Category III	Annual property management fee to include work in the ongoing maintenance of property – <b>optional</b> service which may be made available to corporate appointees by prior arrangement only and will be included by agreement with clients or appropriate representatives in a financial plan.	£270
Category IV	Preparation and lodgment of an annual report or account to the appointee – <b>optional</b> service which may be made available to corporate appointees by prior arrangement only and will be included by agreement with clients or appropriate representatives in a financial plan.	£195
Disbursement	<p>Local Authorities are allowed to charge for specialist services that all clients would normally be expected to pay. Where a Deputy Office client requires additional ad hoc support and there are no suitable, cost effective alternative service provisions, the professional services of the deputy office may be available for a fixed hourly rate. This is available by prior arrangement only and in agreement with the Deputy Office Manager and will be included by agreement with clients or appropriate representatives in a financial plan.</p> <p>The Council will also charge for arranging of funerals for deceased estates under the Public Health (Control of</p>	<p>£40 per hour</p> <p>Plus actual cost/fees relating to any items/transactions or services arranged</p>



	<p>Disease) Act 1984.</p> <p>Any fees or transactions cost (for example bank fees) relating to the management of the financial affairs of Deputy Office clients are payable by the client.</p>	
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All fees and charges for services received will be applied upon affordability and are chargeable to all deputy office clients who have net savings and accounts in credit of £750 or more. Category I and II fees will be charged on the RBC payment schedule on or after the anniversary date as per agreed client financial plan. Category III, IV and Disbursement are payable on first available payment schedule following receipt of services. Fees will be collected by standing order or by transfer.

In cases where undue hardship may be caused by the payment of any fees, then in such circumstances clients may be exempt from the fee on application to RBC's Deputies authorising officer. Applications can be submitted either by clients or appropriate representatives, for example an advocate or an allocated Adult Health & Social Care worker.

## 8. How Policy and Policy Amendments will be communicated

RBC will take steps to:

- Give early advice to clients on the policy, highlight changes to each individual and provide assistance with how this may affect their financial affairs and financial plans.
- Provide advice on how and when charges will come into effect.
- Provide clear and concise information on how to raise awareness of hardship as quickly as possible and take necessary action to avoid causing any undue hardship.
- Raise the implications for non-agreements with clients, appropriate representatives and suitable professionals involved.
- Review each case individually, taking into account the known circumstances of that client, if possible and endeavouring to find a remedy to any issues which place a client at risk of undue hardship.
- If a fee or charge remains unpaid because of unforeseen financial issues arising, then advise the client what will happen and let the client know what action can be taken and which organisations or agencies can advise them and how they can be contacted.

## 9. Policy Summary

- Wherever possible, RBC will encourage and support individuals to manage their own financial affairs or support nominated friends and family to assist.
- Where RBC does take on the responsibility to manage an individual's financial affairs, it will act responsibly and in the interests of the individual.
- RBC will only manage an individual's financial affairs if there is no other suitable person to undertake this role and/or where there is evidence of conflicting interests, suspicions or accusations of abuse.
- RBC offers services through its *Deputy's Office Team*, to help vulnerable individuals manage their financial affairs. Support is offered by undertaking a role as either an Appointee of the Department of Work and Pensions or a Deputy of the Court of Protection. An **Appointee** works with the individual's consent and instruction to manage their benefits and financial affairs. A **Deputy** manages the individual's finances because they lack the mental capacity to do so themselves.
- RBC has a duty under the National Assistance Act (1948) to protect individual's property when they are hospitalised or removed/relocate from their home and no one has been identified as being able to do this on the client's behalf. RBC will develop and agree procedures to accompany this policy, to assist staff to meet this duty competently.
- There are fees and charges which will be applied for deputy and appointee services. These will be regularly reviewed and will be included in the financial plans prepared with and for people RBC act for.