

### INTRODUCTION OF A PRE-DEPUTYSHIP SUPPORT CHARGE

#### 1. Introduction

- 1.1 Social Services ' Client Property and Finance Unit ('the Unit') manages the property and financial affairs of service users who are aged over 18, have been assessed as mentally incapable of managing their finances and where there is no suitable third party (e.g. family) who are willing or able to do so. The Unit provides preventative measures where a service user is at risk of financial abuse or provides intervention where there is evidence of this occurring, and will continue to provide this support until the service user is reassessed as having capacity, another suitable person is identified to act, or on the death of the service user.
- 1.2 The Unit only currently charges for the service provided once appointed as Court Deputy for property and affairs by the Court of Protection. These charges are determined by the Ministry of Justice and are means tested based on capital assets, but Court orders can take several months to obtain and no charge is currently levied from the commencement of support until the appointment as Court Deputy.
- 1.3 The Unit initially applies to the Department of Works and Pensions to receive and manage state benefits until a Court order is obtained. This enables the Unit to budget this income to meet the service user's living expenses, pay their bills, address debt and make contingencies available but a Court Deputy order is required to legally manage all issues of property and financial affairs outside of state benefit. It is therefore proposed to introduce an interim monthly support charge from commencement of case management to appointment as Court Deputy, when Court approved fees would instead apply.

#### 2. Business Case

- 2.1 The Social Services and Wellbeing Act 2014 places a statutory responsibility on Local Authorities to have in place or identify systems to protect vulnerable adults from all forms of abuse – including financial – and to have discretion to charge for these services.
- 2.2 Some Local Authorities have already introduced a charge (e.g. Wrexham County Borough Council introduced a charge of £5 per week in 2010).
- 2.3 The impact of introducing a charge for individual service users has to be considered and whether it is appropriate, affordable and sustainable in every case. As such an appeals process will also be introduced, submitted by the service user (with or without advocacy), care manager or case officer, which evidences that a charge would cause hardship and therefore need to be waived. Service users in residential or nursing care

cannot be charged if their sole disposable income is a protected personal allowance from state benefit entitlement.

- 2.4 The actual projected income is unknown, as this will depend on where the service user is living, an assessment of their financial position and how long it will take to obtain a Court Deputyship order to succeed the interim support charge.
- 2.5 The Unit currently charges all service users £5 per month as an operational cost of managing their finances using a Lloydslink virtual banking system introduced in Autumn 2015. This charge will be reviewed and likely to reduce to £3 per month after the first year as this is only for bank charges such as operating and transaction costs, and any residue will be repaid to service users' accounts i.e. this charge cannot provide additional income for the Unit.
- 2.6 In view of the above and similar charges already implemented by other Authorities it is proposed to introduce an initial pre-Deputyship support charge of £5 per week, subject to review. This will result in each service user being charged a total of £23 per month, thereby covering both the Lloyds fee and the Unit's support charge until a Court Deputyship order is obtained (which takes approximately 6 months from application to appointment), when the support charges are replaced by approved Court annual fees for Local Authorities.
- 2.7 The charge will reflect all services provided directly by the Unit other than just receiving and managing state benefit as appointee, including property management, client representation with all outside agencies relating to matters of property and financial affairs thus assisting service users to maintain their independence prior to Court Deputyship (the charges for which are then set by the Court of Protection).
- 2.8 Any pre-Deputy charge is outside of the jurisdiction of the Court of Protection and there is no suggestion that the implementation of a similar charging policy has been challenged in other Local Authorities.
- 2.9 It is intended to deduct this as a 'one off' charge retrospectively once appointed as Court of Protection Deputy for property and affairs, so as to reduce the risk of hardship as both income and capital assets can then be taken into account when considering if the charge is affordable.

### **3. General Issues**

- 3.1 In accordance with the Income and Charging policy the income from charges for this service will not exceed the cost of providing the service but will instead serve to offset the Unit's existing gross annual costs.
- 3.2 Any service user in residential or nursing care is exempt from this charge if they have no capital assets and their only disposable income is personal allowance which is legally protected.

- 3.3. 61 new service users were allocated for case management in the year 2015 / 16, of which 33 were in nursing or residential care and therefore potentially exempt. The remaining 28 new service users would have generated income of £3640 if a charge had been successfully introduced at £5 per week, based on an average of 6 months' charges from allocation to the obtaining of a Court Deputyship order.
- 3.4 The Unit's factsheet would be amended to include the retrospectively taken pre-Deputyship support charge if introduced and the right to appeal, for example based on evidence that levying this charge would cause hardship. This factsheet is currently shared with new service users who in turn may wish to discuss the content with their families, carers and advocates
- 3.5 Consideration would need to be given as to how existing service users would be notified of the charge, either by mailshot or else deciding to only introduce this interim charge to new service users once a commencement date has been agreed, given that it is only expected to apply for 6 months.

#### **4. Equality and Engagement Implications**

- 4.1 An Equality Impact Assessment Screening Form has been completed with the agreed outcome that a full EIA report was not required. The Screening Form is included as Appendix 1.

#### **5. Financial Implications**

- 5.1 There are no perceived significant financial implications associated with this report. Collection of the one off retrospective fee should not have any additional work implications or cost, as a single payment can be set up from each eligible service user's virtual bank account.

#### **6. Legal Implications**

- 6.1 There are no perceived significant legal implications associated with this report. Due consideration will be given to hardship implications on service users on a case by case basis and a process of appeal will be made available so as to ensure compliance with relevant legal obligations.
- 6.2 Legal advice has been sought to ensure this is seen as a legitimate charge under current legislation.

**Background Papers:** None

**Appendices:**

<b>Appendix 1</b>	Equality Impact Assessment Screening Form
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## Appendix 1

Please ensure that you refer to the Screening Form Guidance while completing this form. If you would like further guidance please contact your directorate support officer or the Access to Services team (see guidance for details).

### Section 1

Which service area and directorate are you from?

Service Area: ADULT SERVICES – CLIENT PROPERTY AND FINANCE UNIT

Directorate: SOCIAL SERVICES

#### Q1(a) WHAT ARE YOU SCREENING FOR RELEVANCE?

Service/ Function Proposal	Policy/ Procedure	Project	Strategy	Plan
X <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

#### (b) Please name and describe below

INTRODUCING A MONTHLY SUPPORT CHARGE FOR MANAGING THE PROPERTY AND AFFAIRS OF SERVICE USERS WITH MENTAL INCAPACITY FROM CASE COMMENCEMENT UNTIL APPOINTED AS COURT OF PROTECTION DEPUTY (APPROXIMATELY 6 MONTHS FROM APPLICATION TO APPOINTMENT)

#### Q2(a) WHAT DOES Q1a RELATE TO?







Direct front line service delivery	Indirect front line service delivery	Indirect back room service delivery
X (H)	(M)	(L)

#### (b) DO YOUR CUSTOMERS/CLIENTS ACCESS THIS...?

Because they internal need to	Because they want to	Because it is automatically provided to everyone in Swansea	On an basis i.e. Staff
X (H)	<input type="checkbox"/> (M)	<input type="checkbox"/> (M)	<input type="checkbox"/> (L)

#### Q3 WHAT IS THE POTENTIAL IMPACT ON THE FOLLOWING...

	High Impact (H)	Medium Impact (M)	Low Impact (L)	Don't know (H)
Children/young people (0-18) →	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
Any other age group (18+) →	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
Disability →	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
Gender reassignment →	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
Marriage & civil partnership →	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>

Pregnancy and maternity	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
Religion or (non-)belief	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
Sex	 <input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
Sexual Orientation	 <input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
Welsh Language	 <input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
Poverty/social exclusion	 <input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
Carers (inc. young carers)	 <input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
Community cohesion	 <input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>

**Q4 HAVE YOU / WILL YOU UNDERTAKE ANY PUBLIC CONSULTATION AND ENGAGEMENT RELATING TO THE INITIATIVE?**

YES      X NO (If NO, you need to consider whether you should be undertaking consultation and engagement – please see the guidance)

**If yes, please provide details below**

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**Q5(a) HOW VISIBLE IS THIS INITIATIVE TO THE GENERAL PUBLIC?**

High visibility <input type="checkbox"/> (H)	Medium visibility <input type="checkbox"/> (M)	Low visibility X (L)
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**(b) WHAT IS THE POTENTIAL RISK TO THE COUNCIL'S REPUTATION?**  
*(Consider the following impacts – legal, financial, political, media, public perception etc...)*

High risk <input type="checkbox"/> (H)	Medium risk <input type="checkbox"/> (M)	Low risk X (L)
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**Q6 Will this initiative have an impact (however minor) on any other Council service?**

Yes      X No If yes, please provide details below

**Q7 HOW DID YOU SCORE?**

*Please tick the relevant box*

**MOSTLY H and/or M → HIGH PRIORITY → EIA to be completed  
Please go to Section 2**

**MOSTLY L → LOW PRIORITY / NOT RELEVANT → x Do not complete EIA  
Please go to Q8 followed by Section 2**

**Q8 If you determine that this initiative is not relevant for a full EIA report, you must provide adequate explanation below. In relation to the Council's commitment to the UNCRC, your explanation must demonstrate that the initiative is designed / planned in the best interests of children (0-18 years). For Welsh language, we must maximise positive and minimise adverse effects on the language and its use. Your explanation must also show this where appropriate.**

All service users in this client group currently pay an operational cost of £5 per month to cover Lloyds Bank overheads for managing their finances under a virtual banking system, expected to reduce to £3 per month after year one. The new support charge would be an additional £5 per week taken retrospectively once all income and assets are accessible as Court of Protection Deputy, but will be subject to appeal on a case by case basis if this causes hardship to mitigate against any potential discrimination claim (i.e. that a charge of £5 per week is unfair). Any waiver or appeal will be means tested, based on an evidenced budget plan showing income and expenditure, including living expenses, debts and contingencies, submitted by the case officer and decided by

the Unit manager. The Unit has a Welsh speaking case officer if required to support service users who converse in Welsh as a first language.

**Section 2**

NB: Please email this completed form to the Access to Services Team for agreement before obtaining approval from your Head of Service. Head of Service approval is only required via email – no electronic signatures or paper copies are needed.

Screening completed by:
Name: IAN JONES
Job title: MANAGER – CLIENT PROPERTY AND FINANCE UNIT
Date: 17.06.16
Approval by Head of Service:
Name:
Position:
Date:

Please return the completed form to [accesstoservices@swansea.gov.uk](mailto:accesstoservices@swansea.gov.uk)