

## Deputy and Estates Team Service Review

Date: 7 December 2022

Report of: Chief Officer of Resources and Strategy

Report to: Director of Adults and Health

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### Brief summary

This report provides an update regarding proposed charges for Corporate Appointees – with a recommendation not to pursue charging.

An alternative proposal is brought forward that aims to maximise the current charging policy, that requires investment of £155k in staffing resources to deliver additional income of £288k per annum.

The paper also provides detail of a service review of the team.

### Recommendations

The Director of Adults and Health is recommended -

- a) Not to pursue the introduction of charges where we are the Corporate Appointee.
- b) To become the Corporate Deputy for 330 eligible clients, for whom we're currently Corporate Appointee.
- c) To implement associated charges per the charging policy as set out by the Court of Protection Practice Direction B for being a Corporate Deputy, bringing in £288k per annum once fully operational.
- d) As part of the invest to save model, and to facilitate implementing this change, approve the recruitment of 4 FTEs to the Deputy and Estates Team.

## What is this report about?

- 1 This report is intended as an update following a request to investigate the viability of introducing charges for Corporate Appointees. This paper recommends not pursuing this option but does offer an alternative. In addition, details of a review of the Deputy and Estates Team (which took place June – August 2022), highlighting pressures on the team and offering a fully funded invest to save solution, which will address current and anticipated future demand, whilst also delivering ongoing financial benefits to the directorate.

## Background and context of the Deputy and Estates Team function

- 2 The purpose and function of this team is:
  - 1) Supporting individuals who do not have capacity to make best interest decisions for themselves in relation to finances – whereby the Council will become either **Corporate Appointee** (usually client has less than £10k in capital, and no property), or **Corporate Deputy** (individual has capital over £10k). For Deputyship cases, the team must complete annual Office of the Public Guardian (OPG) reports. The OPG determines the amounts that local authorities should charge for the services delivered where they act as Corporate Deputy. In 2020/21, the team charged £42,500 for approximately 82 clients.
  - 2) The team also undertake an Estates Function. [S.48 of the Public Health Act 1984, Control of Diseases](#) mandates that local authorities will arrange and pay for a funeral where someone in the community dies, and there are no known relatives or others to complete this task. We also attempt to recover costs where possible.
  - 3) The Deputy and Estates (D&E) Team currently use a system called CASPAR. It is recommended that workflows and allocation queues (almost entirely like those used for social work teams) are set up for the team in CIS – allowing all information about an individual to be recorded in one place; this would remove some barriers that currently exist, and allow social work colleagues to directly track the progress of an application for deputyship or appointee (which takes some months), and currently takes the form of multiple calls and emails to the team, and is ultimately unproductive for all. However, if this development is not possible due to lack of developer resource time, an alternative is underway by way of an adapted SharePoint to house queries from LCC staff to the team – which would better serve all staff concerned.

## What impact will this proposal have?

- 3 DLT asked for a report detailing the viability of charging for Corporate Appointeeship as part of consideration following the proposal of the budget for 21/22. There has been considerable work done to unpick this original proposal, which was completed during the covid pandemic, and in response to the unprecedented financial impact of the same. The summary position is that the return on investment does not justify this action. The original report to Executive Board indicated circa £150k per annum.
- 4 However, upon review it has been identified that for a similar investment, our income could be higher, involve less workload for an already stretched team, follows existing policy, doesn't involve consultation, is in line with current charging policy and allows LCC to be responsive to OPG recommendations.

- 5 Through modelling and cost benefit analysis, the initial proposal will not generate the income as per the original target, and (as above) doesn't offer a sound return on investment. This must be caveated with the fact that the models originally proffered were based on not charging anyone with less than £1k in capital after disbursement. This would have generated £150k per annum in income. This proposed threshold of £1k in held capital was considered by those taking part in an Equality, Diversity and Inclusion exercise as being too low. The rationale being those individuals accessing services often lead unpredictable lives, and that £1k may soon be depleted if there are unexpected costs to be covered, such as replacing white goods, or a change in circumstances. Following the EDI exercise, (which included social work colleagues, commissioners, and legal), it was agreed that although the £1k threshold provided a good level of income for the services provided, it was not viable for individuals.
- 6 However, where LCC are the Corporate Deputy for an individual, there are pre-set amounts (determined by OPG) to charge for this function. This applies where individuals have capital over the threshold of £10k. The option to transfer clients from Corporate Appointee to Deputy, is ideally what should be happening now under OPG guidelines. This isn't happening every time, due to resourcing issues – being Corporate Deputy requires additional duties of an individual/or local authority. This would naturally produce more income and is prescribed practice.
- 7 The remuneration (as indicated in the table below) a Local Authority is entitled to receive under Rule 19.13 of the Court of Protection Rules 2017, differs regarding Corporate Appointees. The Department for Work and Pensions (DWP) are the responsible body regarding Corporate Appointee and have set no such provision for charges/remuneration. The reason for the difference in oversight and governance of Appointee and Deputy, is specifically regarding benefits and capital held. Appointeeship predominantly means that a persons' benefits will be managed by this individual/organisation (who is nominated/appointed as appointee), who is granted permissions to act on their behalf. Deputyship gives the individual/organisation, full access to a person's entire asset portfolio, with the duty to manage this on their behalf appropriately. This is part of the reason that LCC would typically hand off some clients to a solicitor where the portfolio is significant e.g. exceeds £75k, because we do not have the specialist skills to manage investments.
- 8 The table below provides a breakdown of charges which are recommended by the OPG where a local authority act's as Corporate Deputy for clients. The DWP does not set a rate for charges in relation to an authority being Corporate Appointee.
- 9 The rates below are the basis for the calculation of the transfer from Corporate Appointee to Corporate Deputy within this paper.

<b>Deputyship Fees to clients - as set by the OPG</b>		
<b>Initial set up fee</b>	£745	
<b>Annual management fee for the first year,</b>	£775	or 3.5% of your net assets if they're less than £16,000
<b>Annual management for subsequent years</b>	£650	or 3.5% of your net assets if they're less than £16,000
<b>Preparing an annual report to the Office of the Public Guardian</b>	£216	

- 10 The remainder of this report details some of the issues alluded to by way of OPG, and the alternative model which is expected to achieve £288k per annum once processes and staff are

fully embedded. Other key benefits of the revised approach include improved customer service, reduced social work contact time, including overall improvement regarding fulfilment of duties in respect of Corporate Deputy and Appointee.

## Current difficulties

- 11 Presently, a number of key tasks are not being completed, this is due to incremental increases in the volume of work (over a number of years) being greater than the team can manage. Staff have prioritised the statutory element which has resulted in backlogs in areas such as the recovery of funeral expenses.
- 12 As an example, between February 2012 and 2019 the Deputy and Estates team failed to claim Housing Benefit for an individual. Their family complained, resulting in LCC being required to repay £21,710 to the individual in the amount they would have received for the benefits. The cause is a combination of insufficient staff to keep track of all clients, and systems that do not provide adequate support to run the service.
- 13 There is an ongoing investigation whereby an individual had capital over the threshold and therefore wasn't entitled to claim Housing Benefit or Universal Credit. However, over time, their capital diminished; this was detected when there wasn't enough money to cover day to day expenses. Because the benefits weren't claimed, they couldn't be backdated. This is likely to cost LCC circa £12k (based on current calculations). The causation is work volumes and systems that do not highlight key data.
- 14 In relation to funerals, colleagues in procurement have been asked to investigate external agencies who undertake familial checks, and can also check whether an individual has assets, from which LCC can attempt to recover costs. This process is time intensive, requires a particular skill set which is intricate. If external agencies can assist (it is anticipated that this will be cost neutral), we may be able to hand off some of this work to specialists and recover a portion of monies paid out under S.48.
- 15 Per the table below the pre-Covid years of 2018/19 and 2019/20 show a recovery rate of circa 25% of the costs incurred. In 2020/21 the amounts recovered dropped to 6%. Much of this can be attributed to staff not being able to visit premises and complete a property search owing to COVID restrictions, and other associated disruption. Figures for 2021 are more encouraging, but still indicative of issues as recovery was 10% lower than pre COVID.

	Number of Funerals	Funeral Costs	Average Cost	Costs Recovered (to date)	Average Recovered	Potential Outstanding	% Recovered
<b>2018</b>	63	£121,475	£1,928	£30,534	£693	£90,940	25.1%
<b>2019</b>	73	£155,753	£2,133	£41,532	£1,038	£114,220	26.7%
<b>2020</b>	74	£155,807	£2,105	£9,358	£662	£109,176	6.0%
<b>2021</b>	61	£128,401	£2,104	£19,225	£534	£61,688	15.0%
<b>2022</b>	20	£42,476	£2,123	£3,037	£433	£39,439	7.0%
<b>Totals</b>	<b>291</b>	<b>£603,915</b>	<b>£2,079</b>	<b>£106,666</b>	<b>£720</b>	<b>£497,248</b>	<b>17.7%</b>

- 16 In December 2021, the Office of The Public Guardian visited LCC D&E Team to complete an assurance visit. In their report they noted the following:

*Page 3. "(...) From previous discussions it was stated that although a collaborative relationship has been established with the social work team, currently due to understaffing and under resourcing – within both teams- there has been some difficulty with maintaining effective oversight."*

**Page 4 Standard 3: Maintain effective internal office processes and organisation**

LCC currently have 98 Deputy cases, 790 Appointeeship cases and hold responsibility for deceased person's estates. This is shared between the Deputy team and there is currently no allocation of specific Clients. The Deputyship is held by director of social services Cheryl Ward [previous Head of Service], day-to-day management overseen by RV, who then delegates work to the Deputyship officers within the team. The Deputy team do not outsource or contract any of their deputyship duties/functions. There is currently a backlog of documents being scanned, although it was advised this is in the process of being cleared.

The Visitor highlighted that the staffing levels at LCC do not appear to be proportionate to the workload in managing Estates, Appointeeship's and Deputyships.

#### **Page 9 5. Overall summary**

It is clear that the deputyship team is dedicated to their clients and ensuring all their needs are met. Although LCC are currently succeeding in their role, it is apparent that this is not without difficulty as there are insufficient resources available. The visitor highlighted, as noted above, that the staffing levels do not appear proportionate to the workload. It may be beneficial if resource were to be looked into.

\*Document available at appendix 1.

It is recommended that the view of the OPG is also taken into consideration with respect to the staffing levels of this team.

### **How does this proposal impact the three pillars of the Best City Ambition?**

Health and Wellbeing

Inclusive Growth

Zero Carbon

17 In support of the Council's BCP outcome objectives, ensuring that the Council can continue to support vulnerable clients to manage their finances, pay bills and utilities, receive allowances etc., through its Appointeeship service, is key to ensuring that as many people as possible in Leeds are able to continue to "live with dignity and stay independent for as long as possible" within their community. In addition, providing financial management services as Corporate Appointee and Corporate Deputyship function, supports the Council in working towards its Best Council Plan ambition of "tackling poverty and reducing inequalities."

### **What consultation and engagement has taken place?**

Wards affected:

Have ward members been consulted?

Yes

No

18 Consultation has not taken place. This paper is concerned with the current statutory function of a particular team, and moreover, that without adequate staff, that this cannot be fulfilled. The Executive Member will be briefed and was formerly briefed when a proposal was taken regarding charges for appointees.

### **What are the resource implications?**

19 The team currently have 5.5 FTE Finance Officers who each carry a nominal workload of around 153 cases each. This excludes estates work. The recommended case load by the Office of The Public Guardian is around 70 per person, to enable them to effectively manage and report in accordance with legal requirements, and annual reporting. This figure excludes those staff at grade B3 since they do not carry a case load and complete other associated tasks. The team manager currently assists and manages several cases in the absence of other members of the team, which has the perverse impact of allowing the team to cope or manage

with increasing referrals to the team. The levels have however become unmanageable, and as highlighted above, were noted during a recent inspection. With an additional 4 FTE staff, the levels per person would be circa 88, which brings workload levels more in line with OPG recommendations than currently.

- 20 It is proposed that to bring the team back to manageable levels of case management, that an additional 3 members of staff at C3 are recruited, along with an SO2. The SO2 would also carry a workload, share line management responsibility for the staff at B3, whilst being able to deputise in the absence of the PO2. The newly appointed SO2 would have responsibility for overseeing the transfer of cases from Corporate Appointee to Corporate Deputy within an agreed timescale.

## 21 Revised team structure

Proposed Structure					
Grade	FTE <b>current</b>	Additional Resource	<b>New</b> team composition	NJC Pay Scale with on costs (top of grade) <b>additional</b>	Cost of proposed team
PO2	1.0	0.0	1.0	£48,450	£48,450
SO2	0.0	<b>1.0</b>	1.0	£43,816	£43,816
C3	5.5	<b>3.0</b>	8.5	£36,963	£314,185
B3	3.0	0.0	3.0	£29,979	£89,937
<b>Proposed level of staffing</b>	<b>9.5</b>	<b>4.0</b>	<b>13.5</b>		
<b>Current team costs</b>					<b>£341,683</b>
<b>New team costs</b>					<b>£496,388</b>
<b>Total additional cost</b>		<b>4.0</b>		<b>£154,705</b>	

- 22 If we're able to recruit these additional staff and move customers for whom we are currently Corporate Appointee to Corporate Deputy (where they have £10k in capital or more), the additional income per annum will be £288k, less the additional costs of 4 members of staff, we'd generate circa £133k net per annum.
- 23 The other key benefits are that customer needs are met more effectively, their finances and affairs are managed more robustly, and we're legally compliant with OPG requirements for Appointee and Deputy clients regarding held capital.

## System Requirements

- 24 The team currently use CASPAR for client management, and RBS banking for individual accounts. Because information is held in CASPAR instead of CIS, social work and other staff cannot see the records. This causes additional workload for both AOS and the social work teams unnecessary queries and work from colleagues. It isn't helpful for cohesion or co-production either.
- 25 The CASPAR system costs in the region of £40k per annum. There is some automation with regard to the information and forms being completed and sent to The Office of The Public

Guardian. There is a facility to create workflow, and interface with banking. However, none of this has been utilised or explored due to ongoing pressures.

- 26 It is possible to configure CIS to complete many of the functions that CASPAR currently caters for. Which would mean CASPAR could be de-commissioned. Data regarding the person would be held on one record.
- 27 It is requested that developer time is allocated to replicate the workflow system created in the Community Care Finance team.
- 28 If the team can have a systemic workflow, cases can be allocated in much the same way as that of social work teams. Currently, staff manage this on an adhoc basis, which is a risk in terms of management, with much of the information being stored in spreadsheets, and reliant on staff remembering key dates, or having individual systems and good practice with regard to the same.

### **What are the key risks and how are they being managed?**

29 The key risks with current staffing levels, are as follows:

- Customers for whom we should be Corporate Deputy for but we're only Appointee: where LCC are appointee we only have legal authority to handle benefits. Becoming deputy means that the entirety of the estate is managed by LCC – and that we're able to adequately provide that service because we have proper legal authority. Where we lack this (where it is required), the service to the customer is adversely affected
- Staff in the team are under some stress since they are unable to fulfil all tasks associated with being either Appointee or Deputy. The estates element of the work has been neglected somewhat, with core duties of arranging and paying for a funeral being the priority. Other tasks such as attempted recovery of expenses for funerals isn't as expeditious as it could be
- There are some customers with capital over £75k who we need to transfer to a solicitor to manage their portfolio more effectively. This hasn't been done so far since there are more urgent and immediate matters to tend to, however, it is in the best interests of the client to do this
- Because there is not a deputy in the team, when the team manager is absent, combined with staffing levels being inadequate, remaining staff are somewhat unsettled can experience stress.

### **30 Key risks associated with recommendations of this paper:**

- Recruitment nationally is currently difficult. There is a risk that even if we're able to advertise these posts, there may be a lack of appointable candidates
- To manage some of the risks identified above, recruitment of a deputy to the team manager at SO2 is considered essential

### **What are the legal implications?**

31 Since this change to practice poses no change to process, other than being sufficiently staffed allowing staff to fulfil statutory duties, there are no legal implications.

### **Options, timescales and measuring success**

#### **What other options were considered?**

32 The Deputy and Estates Team has undergone a service review regarding process, and function. It has since been determined that a more sustainable and viable option in terms of achieving the original target as set out in the Executive Board Report of 2020, is to move 330

Corporate Appointees to Corporate Deputy. This will generate additional annual income of circa £288k.

33 To assist in achieving this, and address staffing issues that have built up over time due to an increase in service use, the net whole year effect would be £133k,295.

### **How will success be measured?**

34 Success will be measured via the increase and transfer of customers from Appointee to Deputy, and the charges for this. Both are easily measurable and reportable on a quarterly basis. The onboarding and transfer of customers from Appointee to Deputy would need to be gradual, not least because the process is lengthy. This would also assist in the training and development of new staff. A period of 18-24 months is considered a reasonable timescale for the transfer as described.

35 In addition to customers, staff wellbeing, stress and morale levels would be measured. At appraisal in July 2022, all staff reported excess levels of stress, which were impacting on their wellbeing.

### **What is the timetable and who will be responsible for implementation?**

36 If approved, recruitment can commence in December. With staff in place by February/March. With training, staff would be able to commence transfers for customers beginning in March 2023, for LCC to become Corporate Deputy. At the latest, this would be complete by January/February 2025.

37 The responsible officer would be the Head of Adults Operational Services.

### **Appendices**

- Benchmarking with other local authorities – appendix 1
- Equality Assessment – appendix 2

### **Background papers**

-  [Leeds Assurance visit feedback document .pdf](#)



## Appendix 1 - Benchmarking with other local authorities

It's difficult to compare workloads across other authorities. Authorities were asked their staffing levels, and Deputy, Appointee and Estates levels. These have been divided between the total number of staff per team. This is a rudimentary comparator. However, it is indicative across the piece that Leeds has by far, the highest caseload of any authority where we have had a response.

Local authority	Number of FTEs	Combined workload – Deputy, Appointee, Estates	Shared caseload	Variance as compared with Leeds City Council per FTE workload (135)
West Berkshire Council	9	234	26	109
Bath and North-East Somerset Council	4	130	33	103
Hertfordshire County Council	6	500	83	52
Leicestershire County Council	10	733	73	62
Nottinghamshire	11.6	1,068	92	43
Norfolk County Council	11	872	79	56
North-East Lincolnshire	5	228	46	89
Isle of Wight	4.29	375	87	48
Gateshead	6.5	452	70	65
South Tyneside	6	201	34	79
Liverpool City Council	8	304	38	97
Sunderland City Council	17	743	44	91
South Gloucestershire Council	5	264	53	83
London Borough of Islington	7	839	120	15

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
London Borough of Islington	1 x PO 3 / 4 Team Manager 3 x SO2 / PO1 Finance Officers 3 x SC6 / SO1 Finance Assistants Total FTE: 7	303	375	161	[divided by 7] Amalgamated: 120

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
West Berkshire Council	1 Team Manager grade J [PO3/4 equivalent] 6.54 FTE Deputyship Officer grade H (C3 equivalent) 1.54 FTE Business Support grade D (B1-B3 equivalent) Total FTE:	12	214	8	[divided by 9.08] Amalgamated: 26

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
Bath and North-East Somerset Council	1 x Team Leader 3 x Deputyship Officer Total FTE: 4	0	130	0	[Divided by 4] Deputy: 32.5 each Amalgamated: 33

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
Hertfordshire County Council	Senior Finance Officer [Team Leader] x 1 2 x Finance Officer 3 x Finance Assistants	250	250	0	[Divided by 6] Amalgamated: 83

	Total FTE: 6				
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Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
Leicestershire County Council	1 x Team Manager FTE 1 x Senior Case Officer FTE 7.3 x Case Officers 1 x Admin (located elsewhere) Total FTE: 10.3	211	305 (+54 waiting for court decisions)	113	(Divided by 10.3)  Amalgamated: 73

Local Authority	Staffing	Appointee cases	Deputy Cases	Estates	Approx. caseload
Nottinghamshire	6 x Deputyship Officers 5.6 x Finance Assistants Total FTE: 11.6	714	354	N/A	(Divided by 11.6) Amalgamated: 92

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
Norfolk County Council	1 x Client Financial Affairs Team Manager 1 x Client Financial Affairs Team Leader 6 x Client Financial Affairs Visiting Officer 3 x Appointee Assistant Total FTE 11	470	311	91	(Divided by 11) 79

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
North-East Lincolnshire	1 x Senior Corporate Appointee Officer/Team Manager 2 x Corporate Appointee Officers 2 x Corporate Appointee Assistants Total = 5 full time staff	84	126	18	46

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
Isle of Wight	0.54 x Team Manager 2.75 x Deputyship Officers 1 x Administrator Total FTE: 4.25	30	330	15	(Divided by 4.25) Amalgamated: 87

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
Gateshead Council	6.5 posts Total FTE: 6.5	281	41	130	(Divided by 6.5) Amalgamated: 70

Local Authority	Staffing	Appointee cases	Deputy Cases	Estates	Approx. caseload
South Tyneside	6 positions Total FTE: TBD	172	16	13 o/s	(Based on one member of staff) Amalgamated: 34

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
Liverpool City Council	1 WTE Team Leader 5 WTE Court of Protection Officers. (1 person deals with deceased persons, 1	70	234		(Divided by 8) Amalgamated: 38

<p>acting as a reviewing officer)</p> <p>1 WTE Apprentice focussing on CoP applications.</p> <p>1 WTE Administration / Business Support Officers</p> <p>Total FTE: 8</p>				
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Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
Sunderland City Council	<p>1 Team Manager</p> <p>3 Senior Caseworkers</p> <p>8 Caseworkers</p> <p>3 Casework support officers</p> <p>2 Benefit support staff</p> <p>Total FTE: 17</p>	75	575	93	<p>(Divided by 17)</p> <p>Amalgamated: 44</p>

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
South Gloucestershire Council	<p>4 FTE Court Deputy Officer</p> <p>1 x Assistant Welfare Benefit Manager</p> <p>Total FTE: 5</p>	17	247	N/A	<p>(Divided by 5)</p> <p>Amalgamated: 53</p>

Local Authority	Staffing	Appointee cases	Deputy cases	Estates	Approx. caseload
Leeds City Council	<p>1 x PO2 Team Manager</p> <p>6.5 x Finance Officer</p> <p>2 x B3 Administrators</p> <p>Total FTE: 9.5</p>	902	82	300	<p>(Divided by 9.5)</p> <p>Amalgamated: 135</p>

