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**Document Control**

Haringey Appointeeship and Deputyship for Property and Financial Affairs procedure.

**1. Using this Procedure**

This procedure is to be used by internal social care practitioners as a guide on the options available for those who require support to manage their Property and Financial affairs.

This procedure will explain the key terms associated with both Deputyship, Appointeeship, and provide a detailed guide on the Council’s internal processes for making an application in order to benefit the client, and ultimately help them achieve a better quality of life.

**2. Appointeeship**

What is an Appointee?

An appointee is a person or organisation appointed by the Department for Work and Pensions (DWP) to be responsible for making and maintaining any benefit claims on behalf of a person who cannot do so because they either lack capacity or their physical disability prevents them from being able to do so.

**DWP** – The Department for Work and Pensions (DWP) is responsible for welfare, pensions and child maintenance policy. As the UK’s biggest public service department it administers the State Pension and a range of working age, disability and ill health benefits to around 20 million claimants and customers. For more information on the DWP’s role [click here.](https://www.gov.uk/government/organisations/department-for-work-pensions)

The role of an Appointee

The appointee role involves:

1. Claiming all DWP benefits that the person may be entitled to
2. Collecting all benefits into a designated account
3. Reporting any changes in circumstances
4. Managing and spending benefits in the Best Interests of a person who lacks capacity.

Need to Know

Appointeeship does not allow access or authority over any other financial assets or properties the person may have. Appointeeship solely allows you to manage the persons benefit income.

**3. Deputyship**

What is a Deputy?

A deputy is a person or organisation appointed by the Court of Protection

There are 2 types of Deputy:

1. Property and Affairs
2. Health and Welfare

**Note - This procedure relates only to Property and Financial Affairs Deputies.** For applications relating to Health and Welfare you should refer to the Court of Protection section of the Mental Capacity Act 2005 Resource and Practice Toolkit by [clicking here](https://www.proceduresonline.com/resources/mentalcapacity/).

A Deputy (for Property and Financial affairs) is appointed by the Court of Protection to manage the Property and Financial affairs of someone who lacks the mental capacity to manage it themselves and the person has not appointed a Lasting Power of Attorney.

Financial deputyship applies when someone has income and assets other than DWP income that need protecting, for example:

1. Occupational pension
2. Annuities
3. Property
4. Stock and shares
5. Bank account(s)

There may be cases where the council cannot take on, for example, complex investments, selling of property and management of property including refurbishment. In such cases, the council can ask the court to appoint a ‘Panel Deputy’ this is usually a solicitor. Cases will be considered on a case by case basis.

Deputyship applications are processed through the [Court of protection (COP)](https://www.gov.uk/courts-tribunals/court-of-protection) and Deputies are overseen by the [Office of the public guardian (OPG)](https://www.gov.uk/government/organisations/office-of-the-public-guardian)

The role of a Deputy

A Deputy is a person or organisation appointed by the Court of Protection to:

1. Make specific decisions as set out by the Court and take steps to implement those decisions

Some examples of things that a Property and Affairs Deputy can be authorised to do as part of their role include:

1. Managing money
2. Claiming benefits and pension
3. Managing bank accounts and utilities
4. Investment and dividend income management
5. Managing debt
6. Buying and selling property (a further order must be sought to sell a property);
7. Holding a tenancy
8. Management of property (e.g. carrying out maintenance work).

Further information about Deputies can be found in the Mental Capacity Act 2005 Resource and Practice Toolkit by [clicking here](http://www.proceduresonline.com/resources/mentalcapacity/p_court_protect.html#deputies).

 **4. Power of Attorney**

A power of attorney is a document by which one person ("donor") gives another person ("attorney") the power to act on his or her behalf and in his or her name. A power of attorney may be completely general, entitling the attorney to do almost everything the donor could do. Or it may be limited to certain defined objects. It may be for a specified period or indefinite. The practical purpose of a power of attorney is to invest the attorney with power to act for the donor and also to give the attorney a document defining the extent of the attorney's authority.

What are the most usual types of powers of attorney?

**A general power of attorney** allows the attorney to do anything, which the donor could do. However it ceases to have effect upon the mental incapacity of the donor.

**A lasting power of attorney** allows the attorney (donee) to do whatever powers are given to the attorney in the document. It survives the mental incapacity of the donor.

**A specific power of attorney** gives the attorney specified powers. For example: "to sell my Morris Minor registration no xxx" or "to buy and sell stocks and shares in my name".

## How to deal with a Power of Attorney

The following guidelines are for situations in which the Local Authority provides care for the donor. Powers of attorney are legal documents. They are not a complete statement of the law of powers of attorney, which means that in each case you need to exercise careful discretion.

Remember that some powers of attorney are limited in their scope and that all powers of attorney terminate on the death of the donor.

A person who gives a power of attorney must be able to understand the nature and effect of their action. A power of attorney given (for example) by a donor who is mentally incapacitated is generally invalid.

To determine an attorney’s authority, you should ask for a copy of the Power of Attorney, certified on each page by a solicitor to be a true and complete copy of it. If there is any question on the authority of the attorney, you should query it with Legal Services. Consider whether the donor has withdrawn his authority to the attorney and whether the donor has given authority to someone else.

The role of a Lasting Power of Attorney

A Lasting Power of Attorney is somebody appointed by the person to make specific decisions as set out by the person and take steps to implement those decisions when the person lacks capacity to make that decision for themselves.

A Lasting Power of Attorney has a legal requirement to act on matters they have been given the authority to act upon unless the Court of Protection has given them permission to delegate this to someone else.

Please [click here](https://www.gov.uk/power-of-attorney) for more information regarding lasting powers of Attorney.

**5. Identifying the Need for Support**

A person may need support to manage their property or financial affairs because either:

1. They lack the capacity to do so.
2. They have a physical disability that prevents them from being able to do so. (These cases may only be actioned as a last resort through DWP Appointeeship)

Determinations about a person’s mental capacity to manage their finances **MUST** be made through a process of a mental capacity assessment (made specific to Finances).

A copy of the mental capacity assessment will be required for any application for Deputyship and Appointeeship and therefore it is important that an assessment is carried out and a decision made on the person’s capacity prior to approaching the Deputyship/ Appointeeship team.

Guidance on assessing capacity can be found in the Mental Capacity Act 2005 Resource and Practice Toolkit by [clicking here](http://www.proceduresonline.com/resources/mentalcapacity/index.html).

**6. Identifying Existing Support**

Before approaching the Deputyship / Appointeeship team you must explore whether the person is already receiving support to manage their Property and Financial affairs. This could be through either of the following:

1. An Appointee
2. A Deputy
3. A Lasting Power of Attorney

If an appropriate level of support is already in place and there are no Safeguarding concerns, there may not be any need for the Local Authority to be involved or take further action.

Establishing if there is an Appointee

When becoming an Appointee, The Department for Work and Pensions (DWP) will send you a BF57 document as proof of the Appointeeship. This document states the Appointees name and contact details as well as the person they are acting for. The BF57 document also outlines the roles and responsibilities associated with being an Appointee.

The Appointee should be able to show you this document as evidence that they have the authority to act. If this is not available they should be able to contact the DWP and request for this document for their records as proof. Please [click here](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/226777/Appendix-02_An_example_of_form_BF57.pdf) to view a blank BF57 document.

Establishing if there is a Deputy or a Lasting Power of Attorney

Sometimes there will be evidence already recorded or available in the person's home that confirms there is a Deputy or a Lasting Power of Attorney. On occasions you may also find this information on the front screen of the clients Mosaic file.

If this cannot be verified either way you, should complete the **OPG100 form** to request this information from the Office of the Public Guardian. [**Click here**](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/286541/OPG100_Apply_to_search_PG_registers.pdf) to access the latest OPG100 form which can be printed or completed electronically. This is a free service for local authorities and the OPG will usually respond to requests within 2-3 working days.

Once you have established there is a Deputy or a Lasting Power of Attorney you must be satisfied that they are authorised to provide the support that the person needs with their property and affairs. If they are authorised, they should make arrangements to do so unless the Court of Protection has given them permission to delegate the role to someone else.

If there is a Deputy or a Lasting Power of Attorney but they are **NOT** authorised to act on the matter in hand, please see section 8 “exploring all available options.”

**7. Concerns about an Appointee, Deputy or Lasting Power of Attorney**

Safeguarding Responsibilities

In all cases where the level of risk to the person, their property or financial affairs warrants it, a safeguarding concern should be raised and discussed with your team manager.

An Appointee

Unless the appointee intends to relinquish the Appointeeship you should, wherever practicable try to support them to meet the requirements of the role before taking any other action.

If there are any concerns regarding an existing Appointee you should notify the relevant DWP departments as well as your team manager immediately of any safeguarding concerns.

A Deputy

Declining to act

If a Deputy is declining to act when they have the authority to do so, or has asked another person to act on their behalf you must raise this with your line manager, and steps should be taken to;

1. Notify the Office of the Public Guardian
2. Take the matter to the Court of Protection for a determination.

Concerns about decisions made

A Deputy can make a decision that you do not agree with so long as they have applied all of the 5 statutory principles of the Mental Capacity Act 2005, including the Best Interests principle.

If you are concerned about the manner in which a Deputy has made a decision you should raise this with your line manager and take steps to reach a safeguarding outcome and notify the Office of the Public Guardian of your concerns.

A Lasting Power of Attorney

If you have any of the following concerns about a Lasting Power of Attorney you must raise this with your line manager, and steps should be taken to notify the Office of the Public Guardian when;

1. A Lasting Power of Attorney is declining to act when they have the authority to do so
2. Asking another person to act on their behalf
3. Making a decision that is not in line with the principles of the Mental Capacity Act 2005.

If you are concerned about the manner in which a Lasting Power of Attorney has made a decision you should raise this with your line manager and take steps to reach a safeguarding outcome and notify the Office of the Public Guardian of your concerns.

**8. Exploring All Available Options**

Need to Know

The Council will only apply to become DWP Appointee or Deputy for finances as a **last resort**. It is normally expected that clients who do not have the mental capacity to manage their financial affairs will be assisted by family/ relatives, solicitors, suitable third parties or organisations. This also applies to where there is a valid Deputy or Lasting Power of Attorney who does not have the authority to act on the matter in hand.

Social Workers/ Care Managers should also be satisfied that other parties are not suitable or unable to assist. Where there are relatives/ family, written statements should be obtained that they are no willing or unable to act on behalf of the client.

**Deputyship & Appointeeship charges**

The Local Authority is permitted to charge the person fixed costs for the services it provides as a Deputy. This includes costs incurred during the initial application, annual management fees and annual fees to prepare reports for the OPG. Making an application for the Local Authority to act should therefore be the last resort after all other options have been ruled out. Where appropriate, families and other involved parties should be made of aware of this.

Please see the practice direction for fees for providing a Deputyship service by [clicking here](https://www.judiciary.uk/wp-content/uploads/2017/03/practice-direction-b-fixed-costs-in-the-court-of-protection-01-17.pdf).

As of the 1st of December 2019, Appointee clients will also be liable to pay the annual management fee of £650. The charging arrangements for Appointeeship mirrors the approach already in place for Deputyship clients under the Court of Protection.

Where the person has savings below £16,000 the fee would not be more than 3.5% of the client’s net savings in order to protect their savings to an agreed level. The level of savings would be assessed on the anniversary of the date the DWP appointed the council as appointee.

The Council will have the discretion to reduce or waive the fees for those individuals who are unable to afford them. The Council will monitor the implementation of the fee to ensure that people are not put at risk of financial or other hardship by the introduction of the fee.

Fees will not be applied to clients who have £3,000 or less in savings as there is a risk of financial hardship for the individual.

Already a Deputy

If there is already a Deputy but they are not authorised to act on the matter in hand you should discuss whether they are able to approach the Court of Protection to seek an addition to the original order of authority that was made.

An application for the Local Authority to act should only be made when the Deputy is not able to approach the Court of Protection (or declines to do so), or where there is likely to be a significant delay in them doing so. Please see sections 9 & 11 for guidance on the Deputyship application process.

Already a Lasting Power of Attorney

If there is a Lasting Power of Attorney but they are not authorised to act on the matter in hand you should discuss with them whether they are able to either;

1. Apply to act as an appointee (if the matter is within the remit of an appointee)

Or

1. Make an application to the Court of Protection for Deputyship if the person now lacks capacity.

An application for the Local Authority to act should only be made when the Lasting Power of Attorney is not able (or declines to) undertake either of the above steps, or where there is likely to be a significant delay in them doing so.

Already an Appointee

You should discuss with an existing appointee whether they are able to make an application to the Court of Protection for Deputyship when;

1. The person lacks capacity
2. The nature of the support they need falls outside the remit of the appointee role (for example if the person holds other income, bank accounts)

A Step by Step guide for those with no existing support

Step 1

Explore whether there are any family members or friends who may be able to apply to act as Appointee or Deputy.

Step 2

If so, discuss this possibility with them and establish if they are able to do so. During any discussion you should provide good information about the relevant role. Please [**click here**](https://www.gov.uk/become-appointee-for-someone-claiming-benefits) for further information regarding Appointeeship and [**click here**](https://www.gov.uk/become-deputy) for further guidance around Deputyship.

If there is still no possibility of family/ friends taking on the role as Appointee or Deputy, in the case of Deputyship you can also consider whether a Solicitor already involved with the person or their family may be able to act and if so, approach them.

Step 3

If they need or request it, allow the family member or friend some time to think things over or access independent advice before making a final decision.

Step 4

If they decide to proceed, consider any support they may need to make the application. For example, this could be provided by an advocate or voluntary organisation. Do not close the case until you know the outcome of their application and are satisfied that the person's finances are safeguarded.

Step 5

If they decide not to proceed find out why, and explore whether there are any barriers that can be overcome. For example, they may not have understood the role and further information could assist, or they may find the process of applying daunting.

Need to Know

If you have considered all of the above and conclude that there are no other suitable options. It may be in the person’s best interest for the council to make an application to manage their finances through either Appointeeship or Deputyship. The next section will go through Haringey’s internal process of applying for either Deputyship or Appointeeship.

**9. Applying for Deputyship or Appointeeship**

Deputyship and Appointeeship referral form for Finances

After having completed a mental capacity assessment (specific for finances) you will be required to gather information and evidence regarding the person’s financial affairs in order to complete our internal referral form for Deputyship / Appointeeship.

Please complete the Appointeeship / Deputyship (for finances) Referral Form through LAS workflow.

The workflow can be accessed as follows:

* Click ‘documents**’ within LAS** record and select ‘start new form’>Finance / Direct Payments > Financial Appointeeship/Deputyship Referral to initiate referral.
* This will take you through the relevant work steps in order to submit a referral for **Appointeeship/ Deputyship.**



Once your referral has been submitted through the LAS workflow and reviewed by the Appointeeship/ Deputyship team you will either be required to attend a **Appointeeship/ Deputyship panel** discussion or obtain further information before a final decision is made.

Please ensure the relevant sections of the form are completed to the best of your knowledge and that you obtain as much information as possible to assist the panel in making a decision. You may also attach any supporting documents to the workflow.

Please note all request for Appointeeship/ Deputyship should be agreed by your team manager before submitting the referral form and a final decision on this will be agreed by the Deputyship/ Appointeeship panel.

You will be expected to complete all sections of the form and provide documentary evidence including the Mental Capacity Assessment. Accurate answers must be provided to avoid any legal implications and delays in the processing of the application.

Haringey Council Panel for Deputyship & Appointeeship requests

Once the Deputyship/ Appointeeship team have reviewed the referral forms, you will be asked to attend a panel discussion. The panel is held by the manager of the Deputyship/ Appointeeship team.

The purpose of the discussion is as follows;

1. Review the case in further detail with the panel present in order to obtain different viewpoints,
2. Go through any changes that may have occurred since completion of the referral forms
3. Discuss any other potential options or solutions to problems
4. Answer any further questions that the panel may have
5. Make a final decision on the referral

A final decision as to whether the Council will apply for Deputyship/ Appointeeship will be made at this point, and any further actions will be made clear to the Social worker and the Deputyship/ Appointeeship officer.

**10. Applying for Appointeeship**

Once a decision has been agreed by panel, all applications for DWP Appointeeship will be processed and managed by the Deputyship & Appointeeship Team.

Firstly, the Deputyship/ Appointee officer will request a copy of the mental capacity assessment carried out on behalf of the client in order to send alongside the Appointeeship application.

Need to Know

The Deputyship/ Appointeeship team will **NOT** download capacity assessments from Mosaic for this purpose and will not send a capacity assessment to the DWP unless it has been sent to them directly by the Social Worker. This is to ensure the correct document is being used.

A BF56 application form will be completed by the Deputyship/ Appointeeship team and signed by the team manager. Please [click here](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/226776/Appendix-01_An_example_of_form_BF56.pdf) to view an example of the BF56 Appointee application form.

An individual Appointee bank account will subsequently be opened for the person in order to expect incoming payments.

Once completed by the Deputyship & Appointeeship team, the BF56 form will be sent to the relevant DWP departments (Pension Service, Job Centre Plus) alongside the mental capacity assessment for processing.

**Note -** Applications can usually take up to 6 weeks for processing. The Deputyship/ Appointeeship team can track the progress of this by contacting the relevant DWP departments. Applications may take longer to process if the client we are applying for already has an Appointee in place. To avoid delay for these types of applications, the Deputyship & Appointeeship team will request for the social worker to provide a written statement from the previous Appointee stating that they would like to relinquish their role to Haringey Council. This will be sent alongside the application to the DWP.

If the DWP agrees with the application the Deputyship/ Appointeeship team will be sent a BF57 form confirming we have been formally appointed to act for the claimant. Please [click here](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/226777/Appendix-02_An_example_of_form_BF57.pdf) to view an example of a BF57 document.

The Deputyship/ Appointeeship team will then expect to start receiving payments into the client’s individual bank account.

In most cases, the Deputyship/ Appointeeship team will recommend that an application for Appointeeship is made pending any Deputyship application in order to safeguard part of the client’s finances in the interim until a Deputyship order is received which can take up to 6 months.

**11. Making a Deputyship Application**

Initial forms to be completed

Once an agreement is made to apply for Deputyship, applications should be made in line with the Council’s processes and requirements.

The application process is managed by the Deputyship/ Appointeeship team alongside the Solicitor to the Council. Forms should **NOT** be downloaded online and sent by anyone other than the Deputyship/ Appointeeship team. Further to getting an agreement to apply for Deputyship for the client, a member of the Deputyship/ Appointeeship team will send the Social worker or person carrying out the application an email request to complete the following forms.

[**COP 1A**](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/687914/cop1a-eng.pdf) - Supporting information for property and financial affairs. This is to be completed by the Social Worker and includes details of Income, Assets, Debt and Money owed.

[**COP3**](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/687945/cop3-eng.pdf)- Capacity Assessment to be completed by the clients Social Worker (qualified practitioner) providing an assessment of the person’s capacity in relation to the matter(s) the Court is being asked to decide.

You should complete the COP3 using the information from the mental capacity assessment that determined that the person lacked capacity in relation to property or affairs.

**Note** - Mental capacity assessments dated over a year old will not be accepted and an up-to-date assessment will need to be carried out.

**COP14PADep**:This is the form you use to notify the client i.e. ‘P’. Please serve this notice in person with attached letter (add contents to your letterhead). You complete this form as an agent (guidance notes will be sent with this form).

Allocated worker will need to provide a minimum of 3 people to notify e.g. family members/relatives, friend(s) or neighbour(s) who have an interest in client’s well-being. They will be notified prior to making the application. If you are having difficulty to identify people to notify you can also consider a named GP, a named care home manager and yourself as the Social Worker.  Please provide name (including title, if known), postal address, email and relationship to George.

Applying for a Panel Deputy

If a client is identified as having a need for a Deputy and owns landed property, the Council can decide to apply for a panel Deputy. This is an application made by the Council for the Courts to appoint an independent solicitor to manage the finances of the individual rather than Haringey Council. This decision can be made for the following reasons.

1. The person owns landed property requiring management
2. They own landed property requiring to be sold
3. The person has a large investment portfolio
4. The person has substantial savings and investments over a certain amount (£100K, however this will be agreed on a case-by-case basis)

As the Council does not have the capacity to manage this, it is more effective to make the application for a panel Deputy in order for them to manage this more effectively in the best interest of the client.

The Council will charge the initial application fee and work up to order fees totalling £1,145 for making any application for a Panel Deputy.

Need to Know

The COP1A and COP3 forms will be sent to you prepopulated by the Deputyship and Appointeeship team with the clients basic information. These documents are controlled and therefore should not be overwritten.

All forms must be returned as a signed paper original.  The Court of Protection does not accept copies or digital signatures.

Once we receive the COP1A and COP3 forms back from the Social worker, the Deputyship/ Appointeeship team will then complete the COP1 form which must be filed with the application form where the application relates to property and affairs.

[**COP1**](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/687898/cop1-eng.pdf) **-** This form is used to start proceedings in the Court and sets out the order the applicant is asking the Court to make. When the Court issues the application form the applicant has to serve certain people with a copy and notify others (including the person to whom the application relates) that the application form has been issued. This is signed by the Deputyship/ Appointeeship team manager.

Within the COP1 form section 5.2, we are asked to notify a minimum of 3 people of the Court of protection application. This is to ensure the necessary people are aware of the application to manage the person’s finances, and to keep them up to date on the progress of the application. This also gives anyone notified an opportunity to object the decision being made.

This could be any close family members, relatives, friends, neighbours, care home managers or advocates. Where there is no one available to be notified of the application, a COP24 witness statement must be completed and signed along with the application.

The social worker will be expected to provide this information to the Deputyship/ Appointeeship team and complete the COP24 Witness statement if required.

Additional information

In addition to the COP1, COP1a and the COP3 you should provide copies of any additional relevant evidence, for example:

1. A needs assessment
2. An OPG100 response from the Office of the Public Guardian
3. Details of any person currently supporting the person with their finances, and why they are not making the necessary application.
4. Any supporting documentation of existing financial assets
5. Copy of any Wills and Funeral plans

**Note -** You should only submit evidence prepared by yourself, or the Local Authority unless the relevant organisation or person has given consent for it to be shared (for example the CCG).

You may also be required to attend the Court of Protection if there is an objection to the application and the Court orders that an attended hearing take place.

Serving notice of an application

The social worker is responsible for serving all notices to the client as required by the Court of Protection. Notices will need to be served directly to the client on two occasions;

1. Once the application has been acknowledged by the Court of Protection
2. Once an order has been made confirming the Deputyship

You will then be requested to complete the following forms by Haringey legal team or Deputyship/ Appointeeship team, you will be provided with instructions on how to complete these forms;

1. Form COP14 –          Notice of Application
2. Form COP 5 –           Acknowledgment of Service
3. Form COP20A –       Certificate of Notification

The forms must be completed and signed once the notice is served and the originals handed back to the Deputyship/ Appointeeship team.

**12. After Making the Application**

**Note:** Deputyship applications can take up to 6 months, depending on the capacity of the Court of Protection. In the interim period you should;

1. Take necessary steps to ensure the person's finances are safeguarded
2. Respond to any enquiries from the person/their representative about progress
3. Notify the team managing the application of any change in the person's circumstances that may affect the outcome (for example if they regain capacity or a family member decides to apply to act).

Tracking a Deputyship application will be done by the Deputyship/ Appointeeship team alongside Haringey’s legal department.

If the Deputyship is granted

At the point that the Court Order is made you can proceed to close the case, unless you need to monitor things or undertake any other Care and Support function.

You must ensure that before closing the case the right support is in place on the Care and Support Plan to enable the person to manage and use any payments they will be receiving safely. Wherever possible support should be:

1. Provided from the person's informal networks of support
2. As part of an existing package of support
3. Focus on building the person's skills and ability to manage the monies independently in the future.

If the Deputyship is declined

If the Court of Protection declines the application you must take steps to support the person to access the support they require through other means.

**13. Reviewing the Need for Deputyship**

When and how to review

Social work practitioners should review the on-going need for Deputyship at the same time as any statutory Care and Support Plan review, or whenever there is evidence to suggest that alternative arrangements may be more appropriate.

Some key questions to ask include;

1. Are the arrangements working from the person's perspective?
2. Have there been any changes to the person's circumstances that might affect their benefits?
3. Have there been any changes in the person's capacity/ability to manage their own money?
4. Is there another person who would be more appropriate to act?
5. If the person receives support to manage cash is the current level of support being provided still the least restrictive?
6. Is the person being supported to make their own decisions and choices about spending their money, wherever this is possible?
7. If the person receives cash is this being used appropriately?
8. Are there any new risks to mitigate?
9. Is Deputyship still required?

As Deputy, the Deputy/ Appointeeship team are expected to complete an annual report to the Office of the Public Guardian reporting all financial activity and further actions throughout the last year.

A warning note is always placed on the front page of the persons mosaic file stating when Haringey manages this persons finances through either Deputyship or Appointeeship. Where a social worker is carrying out an annual review of one of these clients it is expected that they first discuss with the Deputyship/ Appointeeship team the following;

1. Update on quality of life
2. Level of savings
3. Income and expenditure review
4. Update on any changes to capacity
5. Any other concerns raised by the Deputy

Changes in circumstances

The Local Authority is required to report any changes in the person's circumstances that could have an impact on their:

1. Benefit entitlement
2. Charges for care fees

Changes in circumstances include:

1. The accumulation of funds above permitted thresholds
2. Changes in illness or disability
3. Changes in mental capacity
4. Change in address
5. Change in marital status
6. Change in income

If the review indicates a change in circumstances you should;

1. Notify the team managing the Deputyship as soon as possible after becoming aware
2. Provide them with any evidence to support this (having regard for confidentiality).

Agreements from the Deputy/ Appointee and Social Worker

Once Haringey Council hold Deputyship / Appointeeship for a person they are expected to carry out their duties under the best interest of the client as mentioned in sections 2 & 3 of this procedure.

The Deputyship/ Appointeeship team will require advice/ agreement from the Social work team manager in order to;

1. Agree any large spends
2. Agree holiday plans for a client
3. To review their income and expenditure plan and budget

**14. Relinquishing Appointeeship or Deputyship**

If you believe that a Deputyship/ Appointeeship is no longer appropriate you should:

1. Discuss this with your line manager;
2. If in agreement, discuss with the Deputyship/ Appointeeship team.
3. Identify who will be managing the Appointeeship / Deputyship going forward.

An application to the Court of Protection to revoke Deputyship or to request to relinquish Appointeeship should always be made when;

1. A person regains capacity

Or

1. Someone from the person's informal network has been identified, agrees to assume the role and is appropriate to do so.

Relinquishing Appointeeship

All requests to relinquish Appointeeship are processed by the Department for Work and Pensions (DWP). The decision must firstly be agreed by your team manager and will be actioned by the Deputyship & Appointeeship team.

A letter will be sent by the Deputyship/ Appointeeship team to the relevant DWP department requesting for Haringey Council’s role to be relinquished. The name and telephone number of the proposed Appointee will also be provided.

Once the DWP makes a decision on this, they will provide confirmation to the new Appointee in form of a BF57 document and begin to transfer all future benefit payments to the new account.

Please note that the Deputyship/ Appointeeship team will not relinquish Appointeeship without confirmation and agreement from your team manager.

Relinquishing Deputyship

Unless a person dies all Deputyships can only be revoked by the Court of Protection.

The decision must be agreed by your team manager and actioned by the Deputyship & Appointeeship team.

Depending on whether we are relinquishing to a sole Deputy or Panel Deputy solicitors, The Deputyship/ Appointeeship team will request for the completion of additional COP1A, COP1E forms. The formal application to relinquish will then be sent to the Courts by Haringey’s legal department and processed by the Court of Protection.

All forms completed by social work team must be sent to the Deputyship/ Appointeeship team to manage this process. Forms should never be sent directly to Haringey’s legal team or directly to the Court of Protection.

Please note that the Deputyship/ Appointeeship team will not relinquish Deputyship without prior agreement from your team manager.

We are still liable to continue our duties as Deputy until a new order is made by the Courts appointing the new person.

**15. When the person you are acting for dies.**

When being notified of a person’s death it is important that all the relevant teams/ agencies are notified. The Deputyship/ Appointeeship team should be notified as soon as possible after a person dies so that they can:

1. Cease making regular expense payments to the person (or their nominated representative); and
2. Cease making financial contributions to the Local Authority; and
3. Notify the Court of Protection and all other relevant agencies; and
4. Arrange for any benefit payments made since the time of death to be repaid to the DWP.
5. Arrange for Funeral payment.

Please note our authority as Appointee/ Deputy ends upon the death of the person. This means that the Deputyship/ Appointeeship team are no longer able to action anything further on their account.

Funerals

Once a person dies, there Funeral has the first call on the Estate, this means no other outstanding liabilities will be settled on behalf of the client other than their Funeral. The Deputy or Appointee is liable to arrange payment up to a maximum of £5,000 towards the cost of this.

Need to Know

The Deputyship & Appointeeship team do not arrange Funerals. When a person dies, it is normally the responsibility of their executors, next of kin, family or friends to arrange the funeral and claim the cost back from the deceased person’s estate.

Who is Responsible for arranging a funeral?

In descending order: -

1. The Executors (if the deceased left a Will).
2. The husband, wife or civil partner of the deceased.
3. The parents of a child under 16.
4. Any other friend or relative who is willing to pay.
5. The NHS Trust (if a person dies in hospital).
6. The Local Authority for the area in which the person died.

If the deceased has no or insufficient money to pay for the funeral, the person arranging the funeral may be entitled to apply to the Department for Work & Pensions for a funeral grant.

If a person dies in Haringey and no one else is prepared to make the arrangements, the Local Authority has a statutory duty to arrange for the funeral under Section 46 (1) Public Health (Control of Disease) Act 1984.

The Local Authority will pay for the funeral but will always claim back the cost from the estate of the deceased person if they have any money. For further information on this please contact the Bereavement team in the borough where the person has died.

Closure of accounts

The Appointee or Deputy is required to ensure that any monies held in the person's name are released in line with an executor’s request or solicitor's instructions.

If no instruction is held and there is no executor who comes forward, the Council will likely refer the Estate to the Treasury. (Making a referral to the Treasury is charged at £250 per referral, once the Treasury confirm they will be administering the Estate an invoice will be raised for this) This will be actioned by the Deputyship/ Appointeeship team.

Releasing funds

For clients that the Council are holding over £5k for, we require a probate certificate in order to release any finds to the executors.

For clients that we are holding under £5k for, we require completion of our internal indemnity form along with the supporting documents before releasing any funds.

For further guidance regarding Wills, Probate & Inheritance, [click here.](https://www.gov.uk/wills-probate-inheritance)