

## **Guidance when Application for Deputyship is made by Serco Court of Protection Admin Team on behalf of Lincolnshire County Council**

### **Introduction**

If the Adult Care customer is assessed under the Mental Capacity Act as having no capacity to manage their financial affairs, relatives, friends and solicitors must be approached to ascertain if anyone holds a Lasting or Enduring Power of Attorney, or whether there is a court order in existence appointing a Deputy for the customer.

- The certified copy of the original court document or Power of Attorney must be seen, a photocopy will not suffice. The original court paperwork must be photocopied for the customer's file.
- If there is doubt as to whether or not a customer has a Deputy or a Registered Attorney, a search of the registers held within the Office of Public Guardian must be made.

If the Lasting or Enduring Power of Attorney needs to be registered this must not prevent the assessment starting and decisions being taken in the customer's best interest until their affairs are sorted out legally. It must however be recognised that the proposed Attorney will not necessarily be able to access and provide all the necessary financial information at this stage, as they have no lawful authority to do so.

If the customer is assessed as needing residential or nursing care, the placement should be made following the standard procedure. A Nil Assessment request should be made to ensure that the home is paid while finances are put in order. A Nil Assessment must be authorised by the General Manager and processed in the usual manner.

If the customer is in hospital and assessed by a multi-disciplinary team as eligible for Continuing Healthcare, they remain the responsibility of the Primary Care Trust (PCT) until a decision has been made about their eligibility for funding. No retrospective payment will be made to the PCT by Lincolnshire County Council to cover this period.

If there is no Lasting or Enduring Power of Attorney and the customer has capital, assets, property or land worth £16,000 or more, an application for Deputyship through the Court of Protection must be completed. This role should be carried out by a friend, relative or solicitor who is willing to undertake the duty on behalf of the customer. The assessment practitioner should ascertain whether anyone is willing to apply for Deputyship. The role can be undertaken by a solicitor acting for the customer.

If the customer has less than £16,000, and a financial institution will not allow access to financial information, the practitioner must contact Serco Court of Protection Admin Team to discuss the case.

It is possible for Serco Court of Protection Team may apply for Deputyship in order to access funds for the customer. Each case will need to be assessed on an individual basis.

Where it is determined there is no friend, relative or solicitor able to act on the customer's behalf and it is appropriate, Serco Court of Protection Admin Team, on behalf of Lincolnshire County Council, can apply for Deputyship. The following processes must be followed:

During the process of applying for Deputyship, the customer's assets are frozen. Whilst the application is being processed, the customer cannot accrue a debt in relation to paying their own Top Up. The customer must, therefore, be placed in a residential or nursing home at the agreed contracting rate paid by Lincolnshire County Council, or a Third Party must contract to pay the Top Up from their own finances.

## **1. Adult Care Practitioner Processes for Applying for Deputyship using Serco Court of Protection Admin Team on behalf of Lincolnshire County Council**

### **The Adult Care Practitioner should:**

- If nobody else is available and/or willing to do so, undertake a Protection of Property visit in accordance with Lincolnshire County Council's statutory duty.
- Obtain as much financial information as possible to complete the financial assessment form, i.e. Bank Statements or Building Society books.
- Where property is involved, complete the Creation of a Legal Charge on Property form to allow the legal charge to be secured on the property once a Deputyship Order is in place. The information on the form can be used to place an HASSASSA charge on the property until the court order has been issued.
- Contact the Serco Court of Protection Admin Team to establish if Deputyship should be considered for the customer. If agreed, Serco Court of Protection Admin Team will send the appropriate form for completion to the practitioner.
- Complete the initial Contact Form, explaining the reason for the referral and to provide detailed background information to the Serco Court of Protection Admin Team.

**If the case is accepted, the following forms need to be completed:**

- COP3 Medical Certificate to be completed by the General Practitioner or Consultant Psychiatrist of the customer.
  - The process cannot proceed without clear medical evidence that the customer does not have capacity. Where there is doubt or conflicting views about capacity there may need to be some discussion with the legal department. The Court of Protection, in an appropriate case, does have the power to determine issues of capacity.
- COP1 and COP1A statement of the customer:
  - assets and income section to be completed with as much information as is available at this time, including creditors, details of property, land and other assets, such as bonds.
  - If available, the practitioner should also provide copies of utility bills, council tax, and bank statements. A list of documents to look for is available at the end of this document.
- Commencement Letter to be completed by the customer's practitioner and returned by post to the Court of Protection Admin Team, along with the appropriate documentation as noted above.
- The practitioner will retain copies of the above documents in the file of the customer and appropriately record all contacts and actions in the customer's record.

**2. Joint Processes for the Serco Court of Protection Admin Team and Adult Care Practitioner when Deputyship has been awarded**

**2.1. The Serco Court of Protection Admin Team will:**

- Send the practitioner a set of COP14 Notification of Application Forms and COP20 Certificate of Service to serve to the customer.
- If necessary, liaise with the practitioner and Serco Adult Care Finance Team to (re)calculate the contributions of the customer, depending on access to information about benefits, capital, etc.
- The charge against assessable property and land remains as a HASSASSA when Serco hold Deputyship.
- Arrange payment of residential care fees to the residential or nursing home and the payment of the personal expenditure allowance to the customer.
- Make arrangements for any property to be cleared and/or tenancy to be terminated.
- Arrange for sale of any property, land and assets.

- Ensure arrangements are in place to liaise between the Serco Court of Protection Admin Team, Adult Care Assessment and Care Management Services, and the Independent Visitor appointed by the Court of Protection.
- Prepare and complete the annual accounts for the Court of Protection and report on decisions taken by the Deputy in respect of the care services and financial matters of the customer.

## **2.2. The Adult Care Area Team or Allocated Adult Care Practitioner will:**

- Inform the Serco Court of Protection Admin Team of changes to practitioner or team.
- Serve form COP14 Notification of Application on the customer and form COP20 Certificate of Service to the Court of Protection.
- Keep the Serco Court of Protection Admin Team informed of reviews or re-assessments and any subsequent change of circumstances.
- Retain copies of the above documents in the file of the customer, and appropriately record all actions and contacts in the customer's contact sheets.
- Ensure the customer receives the minimum of an annual review.
- Follow up any concerns raised by the Independent Visitor that fall within their domain of work.
- Keep the Serco Court of Protections Admin Team informed of actions taken and future plans in respect of the customer.

## **3. Cessation of Serco Court of Protection Admin Team involvement**

If the area practitioner or team is notified of the customer's death, they should advise the area Business Support Team so that the Daily Financial Amendment sheet can be updated. They should also inform the Serco Court of Protection Admin Team.

When Serco are notified that the customer has died, the Serco Court of Protection Admin Team will notify the Serco Adult Care Payments Team to:

- Cease payments to the residential or nursing home and inform the Business Support Team, via the Daily Financial Amendment sheet, so that customer records can be amended.
- Inform the Court of Protection that the customer has died.

At this point, Serco Court of Protection Admin Team's authority to act as Deputy on behalf of the customer ceases and all assets are frozen, as the Court Order ceases on the date of death.

#### 4. List of contacts

##### **Serco Adult Care Finance Team**

- Penny Hewitt – Team Leader Assessments – 01522 555697
- Donna Crashley – Team Leader Payments – 01522 555696

##### **Serco Court of Protection Team**

- Email – [copadmin@lincolnshire.gov.uk](mailto:copadmin@lincolnshire.gov.uk)
- Cheryl Moore – 01522 555698

##### **Adult Care Finance Team**

- Emma Farley – Senior Finance Officer East & West – 01522 554235
- Janet Grant – Senior Finance Officer South – 01522 555107

##### **Appointeeship Team**

- Email – [Client.Accounts@lincolnshire.gov.uk](mailto:Client.Accounts@lincolnshire.gov.uk)
- Tel – 01522 555555

#### 5. Check list for documents

Documents found should be sent to the Serco Court of Protection Admin Team, 2<sup>nd</sup> Floor Thomas Parker House, 13/14 Silver Street, Lincoln Ln2 1DY

- Birth Certificate
- Marriage Certificate
- Death Certificate (e.g. Spouse/Parent)
- Passport
- Will
- Power of Attorney/Enduring Power of Attorney
- Driving Licence
- Vehicle documents – Registration V5/MOT Certificate
- Bank account/s statement/s
- Bank/Building Society Passbook
- Debit/Credit cards
- Credit card statement
- Life assurance policy/premium receipt book
- Social Security Benefits correspondence:
  - DLA Care
  - DLA Mobility
  - Attendance Allowance
  - Income Support
  - Pension Credit
  - Incapacity benefit
  - Severe Disablement Allowance
  - State Pension
  - Other
- Occupational Pension payment advices
- Title Deeds to property

- Mortgage/Equity release plan
- Rent book/card
- Rent statement
- Council Tax Bill
- Council Tax Accounts
- Housing Benefit Award
- Buildings & Contents Insurance
- TV Licence
- Income Tax – notification of coding
- Share Certificates
- National Savings & Investments Premium Bonds
- Unit Trust Certificates
- Debts (e.g. Sky TV, newsagent, catalogue)
- Utility Bills (e.g. Gas, Electricity, Water, Phone)