
Executive Member for Health & Adult Social Services

21 December 2010

Report of the Assistant Director of Adult Assessment & Safeguarding (ACE) & Financial Services (CBSS)

Court of Protection

Summary

1. This report presents to the Executive Member for Health and Adult Social Services the option to implement the prescribed fixed costs for administering Court of Protection cases as set out in the Court of Protection rules 2007.

Background

2. The council has for a number of years administered Court of Protection cases without claiming the fixed amount of remuneration to which it is entitled. The council does not necessarily have to claim these costs however other neighbouring authorities do including Leeds and Doncaster (See paragraph 7).
3. The number of cases is not significant with 8 cases currently been managed and a further 8 to be transferred from Legal. The current cost of managing these cases is born by the Council Tax Payer. .

Implementing the charges

4. The basis for the remuneration is set out within Section 19 of the Court of Protection Rules 2007 and the supplementary Practice Direction – Fixed Costs. The council currently makes no charge for this service and delivers it within the capacity of the Customer Finance Team which forms part of the Income Service within the Customer & Business Support Directorate. The fees applicable for all cases lodged after the 1 May 2009 are set out at Table 1 below and are charged directly against the estate.

Table 1

<u>Court of Protection Fixed Costs</u>		
<u>Category</u>	<u>Description</u>	<u>Amount</u>
1	Work up to and including the date upon which the court makes an order appointing a deputy for property and affairs	£645 (Plus VAT)
2	<p>Annual management fee where the court appoints a local authority deputy for property and affairs, payable on the anniversary of the court order</p> <p>a) for the first year</p> <p>b) for the second and subsequent years</p> <p>Provided that, where the net assets are below £16K, the local authority deputy for property and affairs may take an annual management fee not exceeding 3% of the net assets on the anniversary of the court order appointing the local authority as deputy.</p> <p>Where the court appoints a local authority deputy for health and welfare, the local authority may take an annual management fee not exceeding 2.5% of the net assets on the anniversary of the court order appointing the local authority as deputy for health and welfare up to a maximum of £500</p>	<p>£670 (Plus Vat)</p> <p>£565 (Plus VAT)</p>
3	Annual property management fee to include work involved in preparing property for sale, instructing agents, conveyancers, etc or the ongoing maintenance of property including management and letting of rental property.	£260 (Plus VAT)
4	Preparation and lodgement of an annual report or account to the Public Guardian	£185 (Plus VAT)

5. The fee income from implementing these charges is not intended to make any profit for the council but to meet the costs of administering these cases from the Estate as opposed to the Public Purse. The council does not seek to take the role of deputy but only does so when there is no one else able or willing to do so or it is in the interest of the customer.

6. If the implementation of these charges are approved they would be applied from 1 April 2011. The next of kin of all the current customers benefiting from the service will be made aware of these charges in advance of 1 April 2011 except where the council acts as deputy to protect the financial assets of the customer.

Consultation

7. Consultation has been undertaken through the Association of Public Authority Deputies (APAD) with other councils (Bradford, Leeds, Doncaster, Wakefield, Kirklees, Rotherham) who charge in line with the fees set out by the Court of Protection, and More for York Council Management Team (CMT).

Options

8. There are two options for the Executive Member for Health and Adult Social Services to consider in relation to this report. These are:
 - i. to continue to provide this service at the councils expense;
 - ii. to apply the Court of Protection Charges as set out at Table 1 from 1 April 2011.

Corporate Priorities

9. The effective and efficient management of income collection directly supports the corporate strategy objective of delivering an Effective Organisation. Improved income to the council also provides cross-cutting financial support in delivering all eight corporate objectives.

Implications

10. There are no implications relating to equalities, crime and disorder, ITT, property or HR issues arising from this report.

Financial

11. There are no direct implications to the Council in implementing these charges.

Legal

12. The legal direction to make these charges is set out within the Court of Protection Rules 2007.

Risk Management

13. There are no significant risks associated with this decision.

Recommendations

14. The Executive Member for Health and Adult Social Services is asked to:

Approve the implementation of the Court of Protection Fixed Costs as set out at Table A and Annex 1 of this report.

Reason To remove the expense of providing this service from the councils budget.

Contact Details

Author:

David Walker
Head of Financial Procedures
01904 552261

Chief Officer Responsible for the report:

Anne Bygrave
Assistant Director, Adult Assessment & Safeguarding

Report Approved

Date 8 December 2010

Specialist Implications Officer(s) Not applicable

Wards Affected Not applicable

All

For further information please contact the author of the report

Background Papers

Court of Protection Rules 2007

Annexes

Annex A – Practice Direction – Fixed Costs