



# This is your guide to The Corporate Appointee and Deputyship Service

## About this guide

This guidance is for people who use social care services and are finding it difficult to manage their own money and property. It will also help families, carers and social care workers to understand more about the Appointee and Deputyship Service. It explains:

- what is an appointee and what is a deputy;
- who can use the service;
- when will the Court of Protection become involved;
- what the Council can and cannot do if we become an appointee or deputy;
- how we will manage your money if we become your appointee or your deputy;
- how much we charge for the service; and
- how you can find out more about appointee and deputyship services.

If there is anything in this guidance that you do not understand, please speak to your social care worker.

## Introduction to the Appointee and Deputyship Service

Redcar and Cleveland Borough Council provides an Appointee and Deputyship Service, for people using social care services, who are unable to manage or make decisions about their money or their property. This is usually because they lack mental capacity. People may lack mental capacity for a number of reasons. For example:

- they have dementia;
- they have a learning disability;
- they have a mental health problem; or
- they have had a serious brain injury or illness.

The Council does not have a duty to provide an Appointee or Deputyship Service. We will only act as an appointee or a deputy for you if you have nobody else who is willing or suitable to do so.

In Redcar and Cleveland, the Director of Adult and Communities acts in the roles of either appointee or deputy. The Property and Financial Affairs Team carries out the day to day duties on behalf of the Director.

Further information about the Appointee and Deputyship Service can be found below.

### **What is an appointee?**

An appointee can act on your behalf if you are claiming benefits or state pension, but find it difficult to manage your money. The Department for Work and Pensions (DWP) must agree that you need an appointee and that the appointee is suitable.

The appointee is usually a relative or a trusted friend. There are also organisations that can act as an appointee. These can be not for profit organisations or solicitors.

If you do not have anyone who is either willing or suitable to act as your appointee, the Council can apply to act as your appointee. We will only act as your appointee if you receive care and support from our social care services.

### **What does an appointee do?**

An appointee is responsible for claiming benefits and state pension, and spending those benefits in your best interest. This includes:

- ✓ applying for your benefits;
- ✓ making sure that you continue to receive your benefits or pension payments;
- ✓ making sure that you are getting all the benefits that you are entitled to;
- ✓ paying back any benefit or state pension overpayment;
- ✓ telling the DWP or Pension Service about any change in your circumstances;
- ✓ using your benefits to pay your household bills and any care fees that you have to pay for; and
- ✓ making sure that you receive a personal allowance to pay for your day to day living. The amount of personal allowance will need to be agreed by the person's social care worker.

### **What can't an appointee do?**

An appointee cannot:

- × make decisions about savings or investments;
- × make decisions about your living arrangements or social care;
- × sign legal documents on your behalf – for example tenancy agreements; or
- × speak to other people or organisations about your money without your written permission.

## Can the Council become my appointee to help me to manage my money?

You can be referred to the Council's Appointee Service if you:

- ✓ use social care services;
- ✓ are over 18 years old;
- ✓ are claiming benefits or receiving state pension;
- ✓ are finding it difficult to manage your money on a daily basis – for example pay your bills on time; and
- ✓ do not have any family, friends, associates, or access to organisations who can help you with your finances.

If you meet these criteria, your social care worker will make arrangements for the Council to apply to the DWP to become your appointee. The DWP will need to be sure that you are not able to manage your own money. They will need medical evidence, and it is likely that they will want to visit you to talk about why you need an appointee.

## What will happen to my benefit payments?

A new bank account will be opened for you; all of your benefit payments and/or state pension will be paid into this account. This account will also be used to make payments, for example by direct debit, standing order or cheques. The account will be managed by the Council's Property and Financial Affairs Team. You will not have direct access to this account, nor will your relatives or friends. The Council uses Barclays Bank for all appointee accounts.

## Is there a fee for the Corporate Appointee Service?

There is an administration fee for the Appointee Service. This fee will be taken from the bank account that we hold for you. The fee is reviewed by the Council every year and can be found on the Council's website.

The Council also keeps any interest that is paid on your bank balance to help cover administrative costs.

## What happens if I no longer need an appointee to look after my benefits?

If you and your social care worker agree that you can look after your own benefits, we will contact the DWP to let them know. You will need to open your own personal bank or building society account. The DWP will pay your benefits into this account.

Once the Council stops being your appointee, we will transfer any money we are holding for you into your new account. You will be responsible for managing your benefits and paying your own bills.

You will be charged an administration fee when the appointeeship ends. The fee can be found on the Council's website.

## What is a deputy?

A deputy is a person or organisation appointed by the Court of Protection to make decisions for someone who 'lacks mental capacity'. This means that that they cannot make a decision for themselves at the time that it needs to be made.

A deputy can be a relative, friend or someone from an organisation such as a Local Authority or a solicitor. The deputy is responsible for making decisions for someone until the person dies or is able to make decisions on their own again.

There are 2 types of deputy: those who look after property and financial affairs (money) and those who look after a person's health and welfare.

This guide refers only to the type of deputy that looks after property and financial affairs.

## **What is the Court of Protection, and when will it become involved?**

The Court of Protection exists to protect the property and financial affairs of people who 'lack mental capacity.'

The Council will apply to the Court of Protection to become your deputy if you:

- ✓ use a social care service;
- ✓ lack capacity to make your own decisions about your property or your money (this must be agreed by a social care worker).
- ✓ do not have anyone who has legal authority to make decisions on your behalf; and
- ✓ do not have anyone else who is willing or suitable to act as your deputy.

## **What does a Deputy do?**

Your deputy can only make decisions that they are authorised by the Court to make. Their decisions must be in your best interest, and they must apply a high standard of care when making decisions.

The responsibilities of a deputy include:

- ✓ management of daily finances, including benefits, payment of bills, care fees and personal allowances;
- ✓ management of assets including investments, bank accounts, pensions and property;
- ✓ making sure that your assets are used in your best interest. For example, if you are in residential care and unlikely to return to your own home, your deputy will decide whether it is in your best interest to sell your home to pay for your care, or to apply for a deferred payment agreement;
- ✓ keeping a record of any decisions made, how the decision was reached and who was consulted; and
- ✓ completing and submitting an annual report to the Office of the Public Guardian (OPG). This includes details of all money that has been paid into and paid out of your bank account (income and expenditure). The OPG is an executive agency of the Ministry of Justice. They have been appointed by the Court of Protection to make sure that deputies are acting in the best interest of their clients.

Once your deputy has been appointed, decisions will be made in consultation with your social care worker, and family and friends where appropriate. However, the final decision will rest with the deputy.

## What can't a deputy do?

A deputy cannot:

- × make a will for you, or change your existing will;
- × make large gifts out of your money (although the deputy can make gifts that you would usually make).
- × hold any money or property in their own name on your behalf; or
- × disclose personal information about your finances to family or friends.

## What will happen to my money?

Once we have become your deputy, we will close all of your current accounts. A new bank account will be opened for you and this will be managed by the Council's Property and Financial Affairs team.

All income, including benefits, pensions and income from investments will be paid into this new account. This account will also be used to pay bills, care fees, your personal allowance and any other expenses you have. You will not have access to this account, but you can ask for additional money if you need it.

If you have a large amount of money in your bank, we will make suitable investments or set up savings accounts on your behalf.

## What happens if I own a property?

If you live in your own home, then the value of the property will not be taken into account when assessing how much you need to pay for social care, or what benefits you are entitled to. This means that your property will not be sold to pay for the cost of your care. As your deputy, we will make sure that all of your household bills are paid from your money and that you have enough money to pay for your daily living expenses. If you have enough money in your bank account, you can also ask for money to pay for things like redecorating, or new furniture, electrical goods, or appliances.

If you are in permanent residential care, and no one else is living in your home, we will make a decision about whether it is in your best interest for us to sell your property to pay for your care and daily living expenses, or to ask the Council for a deferred payment. For more information about this, you can read our guide to deferred payments.

If your property is sold, any personal belongings will be given to you – providing there is space within the residential care home to store it.

## Is there a charge for the deputyship service?

Yes. When an application is made to the Court of Protection, an initial court fee and a deputy set up fee are payable to the Court of Protection. There is also an annual supervision fee payable to the Office of the Public Guardian.

The Court of Protection also allows Local Authorities to claim an annual fixed fee for acting in Court of Protection proceedings and for acting as a deputy. The amount that is charged can be found at [www.gov.uk/become-deputy/fees](http://www.gov.uk/become-deputy/fees).

All fees for the Deputyship Service come out of your own money. We will take the fees directly from your bank account. If you have limited income or assets, you may be entitled to an exemption from paying these fees. We will claim for any exemptions on your behalf.

## What happens when a client dies?

The Council's responsibility as a deputy ends when the client dies. However, we will:

- trace and contact the next of kin where possible. Occasionally, we may refer cases to organisations that specialise in estate research.
- inform all the relevant agencies of the death; and
- advise the next of kin about their responsibility to make funeral arrangements and the procedures for claiming the estate.

If there is no next of kin, then the Property and Financial Affairs Team may arrange the funeral under the Public Health Act (see our separate information on Public Health Funerals).

Where there are funds or items of value in the Estate then the case will be referred to the Treasury Solicitors Department.

If there is no Estate, the Property and Financial Affairs Team will keep any non-valuable personal items, such as photographs or letters, for one year. After this, if no next of kin has come forward, the possessions will be disposed of appropriately.

## What is the Ministry of Justice deputyship fee refund scheme?

The MoJ deputyship fee refund scheme was launched on 4<sup>th</sup> October 2019. The scheme is intended to refund those who may have paid more than they should for some deputy fees between 1<sup>st</sup> April 2008 and 31<sup>st</sup> March 2015.

Current deputies with existing clients will be contacted by the Office of the Public Guardian (OPG) and their clients will automatically be refunded. Former clients whose case has now closed and the deputyship ended, will have to apply for a refund.

Full guidance for those applying is available online and there is a dedicated refunds helpline for those who need it. If you, or someone you are acting for, thinks they may be eligible please visit [www.gov.uk/deputyship-refund](http://www.gov.uk/deputyship-refund) for more details and to apply. For those who don't have internet access, or need help with their refund, please contact OPG on 0300 456 0300 to speak to a member of the refunds team. The scheme is open for 3 years from 4<sup>th</sup> October 2019.

If you need help to read or understand this guide, please speak to your social care worker, or contact Adult Social Care on 01642 065070.

To find out more about the Council's Appointee and Deputyship Service, contact your social care worker who will be able to help you.

The following websites provide some useful information about appointees, deputies and power of attorney:

[www.gov.uk/court-of-protection](http://www.gov.uk/court-of-protection)

[www.moneyadviceservice.org.uk](http://www.moneyadviceservice.org.uk)

[www.gov.uk/become-appointee-for-someone-claiming-benefits](http://www.gov.uk/become-appointee-for-someone-claiming-benefits)

#### Adult Social Care Contact Details:

<p>Address:</p> <p>Directorate of Adults &amp; Communities Adult Social Care Redcar and Cleveland Borough Council Seafield House Kirkleatham Street Redcar Yorkshire TS10 1SP</p>	<p>Contact numbers, email and website:</p> <p>Telephone: 01642 065070 Email: <a href="mailto:contactus@redcar-cleveland.gov.uk">contactus@redcar-cleveland.gov.uk</a> Website: <a href="http://www.redcar-cleveland.gov.uk">www.redcar-cleveland.gov.uk</a></p>
<p>Our normal office hours are: <b>Monday to Thursday: 8.30 am - 5.00 pm</b> <b>Friday: 8.30 am - 4.30 pm</b></p> <p>If you need help in emergency when our offices are closed, you can contact the <b>Emergency Duty Team</b>: Telephone: 01642 524552.</p>	

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