



Havering
LONDON BOROUGH

Notice of NON KEY Executive Decision

Subject Heading:	Approval of charge for the completion of Court of Protection COP3 Mental Capacity Forms by care managers and charges for the implementation of a new administration service for General Power of Attorney.
Cabinet Member:	Cllr Gillian Ford
SLT Lead:	Barbara Nicholls, Director of Adult Services
Report Author and contact details:	Ian Williams Appointee and Deputyship Manager ian.williams@havering.gov.uk 01708 434385
Policy context:	Charging policies for Discretionary Services in terms of charges for mental capacity assessment for Court of Protection applications and administration of General Power of attorney.
Financial summary:	COP3 Forms - the proposed new charge of £330 per case will equate to estimated additional income in the region of £10,560 per year, based in current trends. General Power of Attorney Administration Service - the proposed new fee is estimated to equate to an additional income of between £4,470 and £5,850 in the 1 st year based on current trends.

Non Key Executive Decision – Part Exempt Report

Reason decision is Key	N/A
Date notice given of intended decision:	02/08/2022
Relevant OSC:	People
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Recommendation:

1. To;
 - 1.1 approve Social Workers undertaking mental capacity assessments for adults who are the subject of applications to the Court of Protection made by third parties where the Council is not a party to the proceedings, and
 - 1.2 in the above circumstances to charge for the provision of such assessments in the sum of £330 per assessment.
2. For the Appointee and Deputyship Team to;
 - 2.1 undertake financial management on behalf of adults who have capacity but choose to engage a professional to manage their financial affairs pursuant to a general power of attorney, and
 - 2.2 in the above circumstances to charge the fees set out at para 3.1 and 3.2 below.

3. COP3

3.1 To consider the proposed new charge for the completion of mental capacity assessment for Court of Protection applications (COP3 Form).

This work is currently undertaken to facilitate applications by the Local Authority for Deputyship to the Court of Protection, and allow the Local Authority to safeguarding clients' financial and property affairs administered as a result of powers awarded under Court of Protection Appointee and Deputyship Orders.

Currently there is no charge for completing the COP3 Forms.

Given the fact that is considered impractical to cost the time taken for completion of the COP3 assessment, a flat fee analogous to that charged by independent social workers of £330 is proposed.

In addition to the COP3 Forms submitted for clients' of the LB Havering, the service could also be on referral of clients' to panel deputies where LB Havering do not have the capacity to take on the case. The total anticipated new cases is 32 each year based on current trends.

The estimated annual income is calculated as shown below:

COP3 Forms	Fee	Number of Clients	Annual Total
Fixed Fee for completion of the COP3 Form	£330	32	£10,560

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GPA

3.2 To consider the proposed new charge for a new discretionary service of administration of General Power of Attorney (GPA). This would mainly apply to clients who can't afford a solicitor.

Although this is not a statutory requirement, it will be done to facilitate protection of vulnerable adults who due to frailty are unable to access their funds. This will give them access to funds for personal expenditure and payment of liabilities, including payment of their care fees which would otherwise remain unpaid.

The estimated annual income between £4,470 and £5,850 is calculated as shown below, based on the expected number of cases:

General Power Of Attorney	Fee	Number of Clients	Annual Total
Annual Fee*	£745	6	£4,470*
Property Management**	£300	3 (included in above)	£900**
Travel Time*	£80	6	£480*
Total			£5,850

*This is a fixed chargeable fee for all GPA cases.

**These fees would only be chargeable if the Client has property to be managed under the GPA service.

This assumes a case load of 6 Clients in the 1st year. In subsequent years, these figures could fluctuate dependent on various factors including, capacity of LB Havering to provide the service, as well as any potential increase or decrease in demand for the service. This is unpredictable at this time.

These fees will only apply if the proposed GPA service is implemented.

The proposed new fees will help towards addressing the significant budget pressures that Adult Social Care is facing.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 Section 3 Para 2.5

(j) To consider and recommend plans in respect of the portfolio allocated.

(q) To agree minor matters and urgent or routine policy matters

STATEMENT OF THE REASONS FOR THE DECISION

Section 1 of Localism Act 2011 gives the LA power do to anything an individual can do, which includes charging for discretionary services.

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This approach is permissible under relevant legislation.

OTHER OPTIONS CONSIDERED AND REJECTED

In total 2 options were considered, the option rejected was;

OPTION 2: No change.

If no charge is made then we will not benefit from the additional income stream. This does not help address the ASC (and Council wide) budget pressures.

The Local Authority would not introduce the new service of administering General Power of Attorney, which would prevent the generation of a further additional income stream.

This does not help address the ASC (and Council wide) budget pressures.

PRE-DECISION CONSULTATION

COP3 Forms

This decision will not impact on existing people but based on past numbers, will impact on new clients. As these clients lack mental capacity and we cannot identify who they will be, consultation is not possible. The local panel deputies (who will be the applicants to the Court of Protection) have been consulted with in relation to referred cases. They have advised that they would prefer to commission the LB Havering to complete the COP3 Form as this would be arranged by the LB Havering Appointee and Deputyship Team Manager, as opposed to commissioning an independent social worker who is likely to charge the same fee. The benefit is that commissioning LB Havering to complete the COP3 should be more efficient as LB Havering already have access to client records and will already be involved with the client.

General Power of Attorney (GPA)


As the potential clients are unknown, it has not been possible to consult. However, the clients will have the capacity to choose GPA via the Local Authority and this decision will be made with the knowledge of the fee incurred. Consultation with LBH Head of Law (Community) confirms that section 1 of Localism Act 2011 gives the LA power to anything an individual can do, which includes charging for discretionary services.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Ian Williams

Non Key Executive Decision – Part Exempt Report

Designation: Appointee and Deputyship Manager

Signature: 

Date:06/07/2022

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The policy is in line with the Care Act 2014.

Powers of Attorney Act 1971, Section 10

FINANCIAL IMPLICATIONS AND RISKS

The proposed changes could generate additional income in the region of £10,560 per year for the COP3 service, and between £4,470 and £5,850 for the GPA service, in total c£16,410. The case numbers quoted in this decision relate to the expected number of new cases that could be taken on in the first year, given expected capacity.

As this decision is about income generation, over time additional income for the council will be generated, as we do not charge for this service currently.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

BACKGROUND PAPERS

None

APPENDICIES

Non Key Executive Decision – Part Exempt Report

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed



Name: Barbara Nicholls
Director Adult Services

Date: 12.8.2022

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____