

Adult Social Care Policies and Procedures

PROTECTION OF PROPERTY including Pets/ Livestock

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POLICY VERSION CONTROL

POLICY NAME	Protection of Property including Pets/ Livestock		
Document Description	This document sets out the Council's response to Section 47 of the Care Act 2014 in regard to its duty to protect individuals' property. If no other suitable arrangements have been, or are being made, then the following procedures need to be followed.		
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1. POLICY STATEMENT

Section 47 of the Care Act 2014 states that:-

Local Authorities must take all reasonable steps to protect the moveable property of an adult with care and support needs who is being cared for away from home in a hospital or in accommodation such as a care home, and who cannot arrange to protect their property themselves; this could include their pets as well as their personal property (e.g. private possessions and furniture) Local Authorities must act where it believes that if it does not take action there is a risk of moveable property being lost or damaged.

Protecting property may include arranging for pets to be looked after when securing premises for someone who is having their care and support needs provided away from home in a care home or hospital, and who has not been able to make other arrangements for the care of their home or pets.

If a request is received to protect an adult's property the Social Care Worker should ascertain whether it is possible for the adult to delegate responsibility for protecting or disposing of property to another person, e.g. relative, Solicitor, or friend. If this is possible then the Local Authority has met its duty as 'suitable arrangements are being made'. This fact must be recorded in the case file along with the contact details of the adult's nominee.

If, however, this is not possible and a suitable nominee cannot be identified, then the Local Authority is responsible for protecting any moveable property on the adult's behalf. A social care worker may enter the property at reasonable times, with the adult's consent; but reasonable notice should be given. If the adult lacks the capacity to give consent to the Local Authority entering the property, consent should be sought from a person authorised under the Mental Capacity Act 2005 to give consent on the individual's behalf.

This might be:

- an Attorney (also known as a donee with lasting power of attorney) that is someone appointed under the Mental Capacity Act 2005 who has the legal right to make decisions (e.g. decisions about their care and support) within the scope of their authority on behalf of the person (the donor) who made the power of attorney;
- a Deputy (also known as a Court-Appointed Deputy) that is a person appointed by the Court of Protection under the Mental Capacity Act 2005 to take specified decisions on behalf of someone who lacks capacity to take those decisions themselves; or
- the Court of Protection.

It may be possible to delegate the responsibility for the protection of property to these individuals and this should be investigated.

If the adult in question lacks capacity and no other person has been authorised to act on their behalf, then the local authority must act in the best interests of the adult in accordance with section 4 of the Mental Capacity Act 2005.

If a third party tries to stop an authorised entry into the home then they will be committing an offence, unless they can give a good reason for why they are obstructing the local authority in protecting the adult's property. Committing such an offence could, on conviction by a Magistrates' Court, lead to the person being fined up to a maximum fine not exceeding level 4 on the standard scale. If a local authority intends to enter a home then it must give written authorisation to an officer of the council and that person must be able to produce it if asked for. (Appendix 1)

The local authority has no power to apply for a warrant to carry out their duties to protect property. The enforcement power is prosecution for unreasonable obstruction. However, if the Court decides the obstruction is reasonable then the local authority would have no further power to force entry.

This duty on the local authority lasts until the adult in question returns home or makes their own arrangements for the protection of property or until there is no other danger of loss or damage to property; whichever happens first. Often a one off event is required such as the re-homing of pets or ensuring that the property is secured. However, if costs are incurred or if there are ongoing costs the local authority can recover any reasonable expenses they incur in protecting property under this duty from the adult whose property they are protecting. Examples include:-

- Gaining access to the property (if forced entry is required)
- Securing the property – e.g. changing the locks if required
- Storing any valuable items
- Arrangements for the care of pets/livestock

To fulfil its duty under section 47 of the Care Act, the local authority will deliver a protection of property service as required, working with its statutory, voluntary and private sector partners when carrying out a care and support function, or making a decision that is relevant, coherent, timely and sufficient.

The protection of property service will be available to the population of Lancashire with care and support needs, and delivered in ways that are accessible. All reasonable adjustments will ensure that disabled people have equal access to the protection of property service which are in line with the Equality Act 2010.

The Local Authority will give due consideration to, and operate in line with, other relevant legislation, policies and guidance to ensure that practice is of high quality and legally compliant. Where those adults the Local Authority comes into contact with

wish to challenge or raise concerns in regard to the Authority's decisions, the Local Authority's complaints procedures will be made available and accessible.

The Local Authority retains its duty for those adults who are ordinarily resident to Lancashire.

2. PROCEDURES

No inventory or search is to be carried out unless the Social Care Worker is accompanied by another responsible person.

If the Social Care Worker cannot find a person willing and capable of looking after the property, it will be necessary for the Social Care Worker to make temporary arrangements as follows:

The Team Manager's written authority must be obtained for any member of staff to enter into an adult's property who cannot give their consent (see Appendix 1 for a standardised letter)

This and another form of identification (e.g. Identity Badge) should be taken when intending to enter the property and produced if asked to do so. Appendix 2 should be used to obtain authorisation to remove money and valuables from the adult's property with their consent and without consent - under the Mental Capacity Act (Appendix 3). Entry into an adult's home should only take place if there is no Attorney/Deputy.

The Social Care Worker undertakes the following:-

- A search to be made and all cash, documents and articles of value to be removed for safekeeping, e.g. jewellery, watches, pension book, Will and Bank book.
- Gas, Water and Electric supplies are to be cut off at main source and meters read. Consideration needs to be given regarding heating systems in operation and the weather temperature i.e. where a frost thermostat is in operation, and consideration of the freezer contents.
- Any other ongoing deliveries to be cancelled for example milk, papers etc.
- All windows and doors are to be secured.
- Notify the local Police by telephone, requesting that the property is kept under surveillance, and confirm this action by letter. To notify the police if this situation changes e.g. the person returns home.
- An inventory of all property (see Appendix 4 - Checklist) in the home must be made, indicating which items are to be removed and which left. **The Inventory must be made and signed by two Officers of the local authority, one of whom should be the Social Care Worker involved in the case.** The original must be sent to the adult, and a copy placed in the case file.

- If the adult has no relative to manage the property, then items of property must be clearly described on the inventory (see Appendix 5).
- A receipt must be made out for any cash removed from the home, which is to be attached to the copy of the inventory to be forwarded to the adult, and the cash handed to the Admin Manager.
- Valuables must be placed in an envelope on which is to be recorded the name of the adult and the contents of the envelope. The envelope is to be handed to the Admin Manager, who will check the contents in the presence of the Social Care Worker and enter the details in a Property Register, which is to be signed, by the Admin Manager and the Social Care Worker.
- Details of offices where the safes are based can be obtained from team managers
- Outside office hours, **neither money nor valuables must be taken home** by the Social Care Worker.

3. PETS AND LIVESTOCK

These are treated as “moveable property” within the meaning of the Care Act 2014. If possible the social care worker should discuss with the adult as to whether there is someone they can contact to take responsibility for caring for pets/livestock.

If there is no one available to assist, a discussion should take place between the social care worker and the team manager regarding the arranging for any care of the pets/ livestock as required.

The adult needs to be advised that they will be required to pay the total cost for any arrangements made, and this should be recorded on the case file. However the social care worker should assist with arrangements, if required, as soon as possible, due to possible limited access of information in some circumstances, e.g. the adult in a hospital setting may have limited access to telephone/ is too unwell to make arrangements themselves.

As an interim the local authority, through the Team manager, may be required to authorise accommodation fees for pets and livestock for which no previous arrangements have been made and prior to the adult being billed for the cost. This cost/ authorisation **must** be reviewed every four weeks at a maximum.

If the adult dies or the adult can no longer care for their pet(s) the Team manager, with agreement from the Area Operation Manager must, without delay, seek a permanent solution to the future care of the pet(s). If the person has capacity to make the decision they can sign the pet(s) over to a relative or friend or appropriate animal charity who can make arrangements to find another home if appropriate. The Local Authority cannot undertake to provide for the long-term boarding of animals.

If it becomes apparent that the adult is likely to require long term residential care or will not be able to return home for some time, then the social care worker should take the following steps ONLY if there is no relative, designated friend etc or LPA/Deputyship:-

- Establish, as far as possible, what the adult's wishes are and the arrangements they wish to make with regard to their property and valuables
- Provide information to the adult about arranging a Benefit Appointee, Power of Attorney or Deputy and/ or instructing a solicitor if required.
- If the person lacks the capacity to manage their property and financial affairs, and a suitable person, e.g. a relative, wishes to become their financial Deputy, offer information on how to apply to the Office of the Public Guardian. They should also be advised to seek legal advice.
- If the person lacks the mental capacity to manage their property and financial affairs and there is no other person suitable to take on this role, then discussion should take place with the team manager about the possibility of applying for a Deputyship order for property and affairs.

The Local Authority Safeguarding Adults Finance team should also be liaised with for advice, action and guidance.

4. RELINQUISHING A TENANCY

Housing Benefit ceases to be paid as soon as somebody becomes a permanent resident in residential or nursing care. This includes the standard four week trial period. It can be paid for up to 52 weeks when a claimant is in hospital and it is intended that they will be returning home.

When the adult has mental capacity:

If the adult wishes to relinquish their tenancy, and the local authority is responsible for the protection of their property, the social care worker should invite the adult to sign the Termination of Tenancy/Disposal of Contents form in Appendix 6 and then send this to the Finance Team who will make the necessary arrangements to terminate the tenancy.

If clearing the property is required, the wishes of the adult should be established by the social care worker with regard to the disposal of possessions. A written authorisation from the adult should be obtained (see Appendix 6) and sent to the Finance team who will make the necessary arrangements to clear the property.

When the adult does not have mental capacity

If the person is subject to a deputyship order with the Local Authority the social care worker will verify the adult's wishes with regards to their possessions and will communicate this to the Local Authority deputyship officer and the Safeguarding Adults Finance Team. The clearing and termination of the tenancy will be managed by the deputyship officer, supported by the Safeguarding Adults Finance Team.

Where there is not a Local Authority deputyship officer, the social care worker should make checks to establish if there is a Deputy or whether the adult has appointed someone else to act on their behalf (e.g. registered Enduring Power of Attorney or Registered Lasting Power of Attorney (property and affairs))

It is important to note that without a Deputy, EPA or LPA only the Court of Protection can authorise the termination of a tenancy. The social care worker must arrange for a best interests assessment to take place under the Mental Capacity Act prior to applying to the Court of Protection.

5. UNINHABITABLE OR UNSAFE CONDITIONS

There may be occasions when it is identified that the adult has been living in unsanitary, infested/verminous or otherwise unsafe conditions. In these circumstances, the social care worker must seek to gain consent from the adult as to how to make the property safe and habitable. Depending on the nature of the problem, the social care worker should then alert relevant individuals or organisations who may have a legal duty to make the property safe and habitable or to carry out enforcement action if required. This could include alerting:-

- A power of Attorney or Deputy for the adult
- The adult's allocated social care worker
- The landlord of the property if rented
- Environmental Health Services

If it appears that the adult's decision-making is impaired in relation to making their property safe and habitable, the provisions of the Mental Capacity Act must be followed and if the adult lacks capacity, a best interest decision will be required as to whether the property should be arranged to be cleaned, repaired or de-infested, .i.e. if there is an environmental health impact on the property.

There may be occasions when an adult who has the capacity to make decisions about the upkeep and safety of their property withholds consent for action to be taken. In these circumstances all efforts should be made to identify with the adult any potential risks to themselves or others and to reach an agreement with them about how the problems may be resolved.

If consent cannot be obtained but there remains concern that the adult and /or others could be at a serious risk of harm then the social care worker must follow the Information Governance guidance and principles of the Care Act in deciding if information should be shared without the adult's consent with other relevant agencies e.g. environmental health. Legal advice should also be sought.

6. RECOVERY OF EXPENSES

Under Section 47 (7) Care Act 2014 the Local Authority may recover whatever reasonable expenses have been incurred in protecting the adult's property e.g. insurance of the property, kennelling fees, cleaning and repairs to the property, costs of appointing deputies etc.

Invoices and receipts will need to be obtained and liaison with the Safeguarding Adults Finance Team who will be responsible for the recovery of these expenses from the adult.

7. OTHER RELATED LEGISLATION

- Care Act Section1
- Chapter 10 Care and support planning Statutory Guidance

8. ATTACHMENTS/APPENDICES

APPENDIX 1: Notification Letter

APPENDIX 2: Authorisation Letter

APPENDIX 3: Confirmation of release of valuables form

APPENDIX 4: Checklist

APPENDIX 5: Inventory

APPENDIX 6: Termination of Tenancy/Disposal of Contents