



Executive Board Sub Committee

**Thursday, 21 September 2006 at 10.00
a.m.**

Marketing Suite, Municipal Building

A handwritten signature in black ink, appearing to read 'David W R', written over a light grey rectangular stamp.

Chief Executive

SUB COMMITTEE MEMBERSHIP

Councillor Mike Wharton (Chairman)	Labour
Councillor Phil Harris	Labour
Councillor Steff Nelson	Labour

*Please contact Gill Ferguson on 0151 471 7395 or e-mail
gill.ferguson@halton.gov.uk for further information.
The next meeting of the Sub Committee is on Thursday, 12 October 2006*

**ITEMS TO BE DEALT WITH
IN THE PRESENCE OF THE PRESS AND PUBLIC**

Part I

Item No.	Page No.
1. DECLARATION OF INTERESTS	
Members are reminded of their responsibility to declare any personal or prejudicial interest which they have in any item of business on the agenda, no later than when that item is reached and (subject to certain exceptions in the Code of Conduct for Members) to leave the meeting prior to discussion and voting on the item.	
2. HEALTH AND SOCIAL CARE PORTFOLIO	
(A) APPOINTEE & RECEIVERSHIP POLICY	1 - 40

In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.

REPORT TO: Executive Board Sub Committee

DATE: 21st September 2006

REPORTING OFFICER: Strategic Director – Health & Community

SUBJECT: Appointee & Receivership Policy

WARD(S) Borough-wide

1.0 PURPOSE OF REPORT

- 1.1 To present a report, recommending an increase in fees against interest charges within the appointee and receivership scheme.

2.0 RECOMMENDATION

- (1) Executive Board Sub Committee formally approve a revision of charges against interest within the Appointee & Receivership Policy;**
- (2) the Board receive a further report in February 2007 as outlined in section 3.3 of this report.**

3.0 SUPPORTING INFORMATION

3.1 BACKGROUND INFORMATION:

The Appointee & Receivership (A & R) Service was set up to assist those Halton Borough Council service users who are unable or find it difficult to manage their own finances on a day to day basis, and those who have been assessed under the vulnerable adults criteria. It is believed that by removing the worry of dealing with their own finances, this will aid the recovery of the service user. Those service users whose health/capacity to manage their own finances improves, are encouraged to take back the management of their own finances.

APPOINTEESHIP is granted by the Department for Work & Pensions. They authorise a named person to receive benefits on behalf of a client. It does not give authority to access clients' bank accounts and private/occupational pensions.

RECEIVERSHIP is granted by the Public Guardianship Office in London. The client has to be deemed incapable of managing their affairs by a doctor and have assets such as property/savings/pensions. A Court Order is issued with specific instructions regarding the client's assets.

3.2 CURRENT POSITION:

Currently the Council applies a 50% charge against interest to offset the running of the service. The existing arrangements within the Appointee & Receivership Policy have been formally reviewed, to include an increase in fee income to 100% of interest receivable – see table below:

%AGE OF INTEREST TAKEN AS FEES	ESTIMATED INCOME FROM APPOINTEE FEES	ESTIMATED INCOME FROM RECEIVERSHIP FEES	TOTAL
05/06 – 50%	£19,960	£13,829	£33,789
06/07 – 100%	£39,920	£7,500	£47,420

The estimated Receivership fees for 05/06 are considerably higher than the estimated projection for 06/07 due to the 05/06 figure including outstanding fees from previous years.

- 3.3 In order to promote independence, as outlined in the White Paper, Our Health, Our Care, Our Say, the Appointee & Receivership section is currently undertaking a research exercise to identify alternative ways for service users to be assisted with financial management through benchmarking against other neighbouring Local Authorities and incorporating the principles of activities across other North West Support Services.

In the interim the proposal is to increase fee levels to 100% of interest receivable this follows a comparator exercise with neighbouring authorities which identified that they impose charges for services which are currently provided free by Halton. This will require a minor amendment to the existing Policy, which is attached. It is recommended that a further report be brought back to Executive Sub Committee in February 2007 for approval of any revisions to the Policy for 2007/8 in the light of changes as outlined in the review, White Paper and Office of Public Guardian.

4.0 **POLICY IMPLICATIONS**

The Policy may need to be amended in 2007 in light of any changes as outlined in the Council review, White Paper and the Office of the Public Guardian.

5.0 **OTHER IMPLICATIONS**

If fees were not collected for the provision of this service, Halton Borough Council would lose a considerable amount of annual income.

6.0 **RISK ANALYSIS**

It is not a statutory requirement of offer an Appointee & Receivership Service.

However, if the Appointee & Receivership Service was not available:

- Considerable numbers of Halton Borough Council's service users who have been assessed as incapable of managing their own finances could potentially get further into debt.
- Providers who are providing support to service users living independently would not be monitored in relation to how they spend service users money for household expenses.

The number of outstanding Council invoices could increase. This could then

contribute to failing health of our service users, which would impact and have resource implications for other in-house services.

7.0 EQUALITY AND DIVERSITY ISSUES

If the Appointee & Receivership Service continues to be available in Halton, its service users will benefit from having the worry of managing their daily living expenses taken away, with the knowledge that if they become capable of taking back their own financial management, that they will be assisted and encouraged to do so. This action will create greater independence and raise the self esteem of those service users who have the ability to manage their own finances.

8.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
None Identified		

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Appointee and Receivership Policy

December 2005

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INFORMATION SHEET

Service area	Policy and Support
Date effective from	October 2005
Responsible officer(s)	Audrey Fearn Cathy Harper Katy Hansford, Gary Cleland
Date of review(s)	October 2005
Status: <ul style="list-style-type: none"> • Mandatory (all named staff must adhere to guidance) • Optional (procedures and practice can vary between teams) 	Mandatory
Target audience	All staff
Date of committee/SMT decision	
Related document(s)	Draft October 2004, Draft June 2005,
Superseded document(s)	Draft October 2005 Draft November 2005
File reference	

POLICY***Practice***

1.1

Purpose

The purpose of this policy, procedure and guidance is to inform staff about their responsibilities in terms of Appointee and Receivership. These responsibilities also encompass the needs of people from diverse communities. In keeping with the Department of Health guide “Everybody’s Business” (November 2005), for *Older People’s Mental Health Services*, HBC is committed to ensuring that vulnerable people will have their needs met wherever they are in the system, without encountering discrimination or barriers to access. This includes developing services such as Appointee and Receivership in ways that are sensitive to individual cultural needs.

1.2

Introduction to Appointee and Receivership

The Appointee and Receivership section (APR) assists clients of Social Services who are unable to or find it difficult to cope with their own finances on a day-to-day basis. Clients are encouraged to manage their own finances when they are able to do so, and responsibility for managing their own finances is transferred back as soon as they are able to do so.

The section also holds capital for looked after children in an interest bearing bank account until they reach the age of 18.

The APR section is part of the Client Finance Team within the Health & Community Directorate. The section comprises two full-time and two part-time staff and is managed by the Client Finance Manager

Appointeeship is granted by the Department for Work & Pensions. They authorise a named person to receive benefits on behalf of a client. It does not give authority to access clients’ bank accounts and private/occupational pensions.

Receivership is granted by the Public Guardianship Office in London. The client has to be deemed incapable of managing their affairs by a doctor and have assets such as property/savings/pensions. A Court Order is issued with specific instructions regarding the client’s assets.

1.3

Criteria for Referrals to APR

People referred to APR must meet the following criteria:

- Be eligible under Fair Access to Care to receive social care services.

- Be considered by a Care Manager to be unable to manage their finances themselves – Care Manager to detail reasons
- Be identified as vulnerable as an outcome of a Strategy Meeting.
- Have no family member who is able to take on the role of appointee and/ or an existing appointee is suspected of being a financial abuser.
- Have no care provider who is approved by the Directorate to take on the role of appointee or who can assist the service user to manage their day-to-day finances.

Referrals to the Appointee and Receivership section (APR) can only be made by a Care Manager/Social Worker/Community Care Worker using the *Appointee Referral Form* ([Appendix 4.1a](#))

Referrals from the Public Guardianship Office and other agencies should also be made via the Appointee Referral Form.

1.4 **People not suitable for Referral to APR include those:**

- Not currently receiving a package of care from Social Services
- Those with family members, who are able to take on the role of appointee (provided there is no suspicion of financial abuse).
- People who have a care provider approved to act as an appointee for service users.

1.5 **Personal Allowances**

Each service user must have a designated bank account, held within a header account from which they receive a weekly personal allowance. The amount of personal allowance paid varies depending on the service user's lifestyle and the level of their disposable income. The amount of personal allowance is finally determined through discussions between the service user and their Care Manager and an assessment of the service user's disposable income undertaken by APR.

1.6 **Payment of Interest**

Interest is paid on the balance held in service users' designated bank accounts. For appointee clients this interest is to be net of income tax. Where the client is a receivership client and it is known she/he is not a taxpayer, interest is to be paid gross, i.e. without deduction of income tax.

1.7 **Appointee Fees**

The Directorate, for providing the service, takes appointee fees. Fees comprise 100% of the interest payable on service user's designated bank accounts and are drawn quarterly.

1.8 **Reviews**

Care Managers to include in their annual service user review a check whether the service user still needs the Appointee & Receivership service.

1.9 **Ending Appointee and Receivership arrangements**

Appointee arrangements will end as soon as possible if any of the following criteria are met or occur:

- At the service user's request and if the Care Manager agrees that the service user can now manage their finances themselves
- The role of appointee is transferred to someone else
- When client moves out of Halton and the provision of care is no longer the responsibility of Halton Borough Council.
- Death of the service user.

PROCEDURE - Appointees

Practice

2.1 **Referral**

Referrals to APR can only be made by a Care Manager, by using the Appointee Referral Form ([Appendix 4.1a](#)). This is accompanied by a signed certification from a medical practitioner, stating that the referred person has a medical condition as per the list [Appendix 4.1b](#).

2.2 **New Appointees**

On receiving a referral, the Appointee and Receivership section will:

- Make an application to all relevant Benefits Agencies to have the service user's benefit paid to Halton Borough Council using the standard form.
- Make Housing Benefit application if appropriate ([Appendix 4.2](#))
- Set up the referral on the A&R database
- Set up the referral on the banking system which involves setting up a designated appointee bank account

- Notify other agencies to amend their correspondence and billing addresses as appropriate.
- Update Appointee and billing address details on Care First

APR will ask the Care Manager to liaise with the service user to find out whether they will agree to A&R holding any Bank Books and other documentation such as wills.

Service users are also asked to sign a letter of authority to enable their occupational and / or personal pensions to be paid to Halton Borough Council as their appointee ([Appendix 4.3](#)).

2.3 **Client Database**

All new appointee referrals are set up on the client database. The database records all income and assets relating to service users and is used for monitoring purposes and to respond to information requests from Care Managers, the Benefits Agency and service users' families. Expenditure is recorded on each service user's designated bank account.

2.4 **Bank Accounts**

All APR clients have their own designated bank accounts, which are held within a header account. All benefits and income are paid into the header account and moved to the appropriate designated bank accounts on receipt of the header account bank statements.

2.5 **Provision of Personal Allowance**

Following discussion with the service user, the Care Manager sends a memo to Appointee and Receivership confirming the amount of personal allowance to be paid. The Appointee and Receivership section will check that this amount is affordable in terms of the service user's disposable income. If it is not, A&R will contact the Care Manager to ask them to re-negotiate with the service user.

Personal allowances are paid weekly or 4 weekly by cheque, which can be cashed at Halton Direct Link, although they may be paid into service user's bank accounts on request.

Personal allowances for residential service users' are paid 4 weekly in arrears by cheque to their respective residential homes. Some residential homes invoice the section for individual service users' expenditure.

2.6 Increasing the Amount of the Personal Allowance and Requests for Additional Monies

Requests to increase the personal allowance and/or requests for additional money must be made via the standard memo ([Appendix 4.4](#)) from the Care Manager to the A&R section, providing at least 3 working days notice.

If the service user's case is not currently open to a Care Manager, the request has to be made by the Duty Social Worker.

If requests for additional money are to make specific purchases, A&R will make the cheque payable to the retailer / service provider where possible, and the service user will provide a receipt of purchase.

If a service user has considerable debts, then the Citizens Advice Bureau can advise about bankruptcy.

2.7 Dealing with ongoing payments, debtors

The A&R section will contact utility companies, insurance companies, as indicated on the referral form, and make arrangements to pay ongoing bills by direct debit or standing order.

Arrangements will also be made to pay any care costs or personal expenditure on receipt of invoices from Halton Borough Council and care providers.

If the service user has pre-existing debts these should be detailed on the referral form. The Appointee and Receivership section will contact debtors and make arrangements to pay the minimum amount acceptable to the debtor by direct debit or standing order.

All payments are recorded on the client designated bank account.

2.8 Completion of Benefit Claim Forms/ Personal Financial Statements

Benefit renewal claim forms should be sent direct to the A & R section by the relevant Benefits Agency / Housing Benefits section for completion. Disability Living Allowance Forms are forwarded to the Welfare Benefits Team for completion, in conjunction with the Social Worker /service user.

The A&R section also completes personal finance statements to enable the Income and Assessment section to assess the service user's contribution to care costs.

2.9 **Change of Address**

The Care Manager must notify the A & R section of any change of address.

APR will notify the following (if applicable) of the service user's new address and date of the move in writing and if a service user is moving from a home in the community to residential /nursing care, the date the placement is likely to become permanent:

- All relevant benefits agencies (If service user moving into residential care and a claim has recently been made to income support for an increase in benefit because the service user is in receipt of DLA middle or higher rate care or if arrears of DLA are outstanding, wait until the arrears are received before notifying either income support or DLA).
- Occupational/private pension companies
- Banks, building societies and investment companies
- Gas, electric and water service providers
- Telephone provider and 'Sky' (as soon as possible as they may need notice)
- TV / video rental companies
- Client Finance (within Social Services)
- Council tax and housing benefits
Request benefit is paid until the tenancy is given up and where appropriate request a council tax application for disregard

A&R will (where applicable):

- Request that Care Manager take final meter readings for gas and electricity and opening readings at the new property and notify APR so they can notify the gas and electricity companies. Ensure final bills are sent to APR section.
- Care Manager to arrange for return of any rented telephone/ TV /video equipment to the rental company if no longer required by the service user. If service user moving into residential care and is taking rented TV / video with them, advise their Social Worker that the rental payment will be deducted from the statutory amount of personal allowance payable to them unless there is sufficient capital available.
- Cancel TV licence and house contents insurance for old address. Care Manager/advocate to arrange for house contents insurance for new address. If service user moving into residential care request refund payable to appointee as

appropriate.

- Cancel all direct debits that are no longer required.
- Discuss amount of personal allowance and any changes in collection arrangements with Care Manager. If service user moving into residential/nursing care and amount of personal allowance is different from the statutory amount plus DLA mobility, the Care Manager should send a memo signed by them and their Practice or Principal Manager, authorising the amount of personal allowance to be paid.

If service user is moving into residential care, APR will also undertake the following:

- Check that Care Manager/service user's family are arranging for disposal of house contents. Remind Care Manager that any financial documents e.g. insurance policies, building society passbooks, wills etc are forwarded to APR for safekeeping.
- If service user did not have a community care package, notify Income Section to request that service user's invoices are sent to APR section.
- Advise Care Manager that APR will complete Personal Financial Statement (PFS) form. Obtain form from Income and Assessment Section and complete (once all benefits have been agreed).
- If APR able to pay service user's contribution to the cost of their care from benefits/capital held, request residential/nursing home send invoices to APR section. Otherwise advise Income and Assessment Section to invoice APR as the appointee.

PROCEDURE – Receivership

3.1 The following Receivership procedures are the same as for Appointees (see sections 2.1 to 2.9 above):

- Referral New Appointees
- Client Database
- Bank Accounts
- Provision of Personal Allowance
- Increasing the Amount of the Personal Allowance and Requests for Additional Monies
- Dealing with ongoing payments, debtors
- Completion of Benefit Claim Forms/ Personal Financial Statements
- Change of Address

3.2 Receivership Checklist

This is sent to the Care Manager to obtain the additional information required to complete the application to the Court ([Appendix 4.5](#)).

3.3 Request for a Medical Certificate CP3

This can be made to a GP, CPN or other appropriate medical professional ([Appendix 4.6](#)).

3.4 Notification to Next of Kin/family/close friends

The APR section will notify family and anyone who has an interest in the welfare of the client that HBC are applying to the Court to become Receiver (form is obtained from Court via the internet). This form advises the family etc. of the procedure they need to follow if they have any objections to HBC being appointed Receiver. It is available from the Internet ([Appendix 4.7](#)). This form must be completed by the APR section and submitted to the 'Court of Protection.'

3.5 Notification to Relatives

After the 'Court of Protection' has reviewed the application form a date will be set for the Court to decide whether to appoint Halton Borough Council as Receiver and the date is notified to the Council by letter. Included with this notification is a letter to the client to advise them that the Council have made an application to act on their behalf and to give them the opportunity to raise any objections. The Care Manager must give this letter of notification to the client personally, at least 10 days prior to the court date.

When this has been done the Care Manager must complete and sign form CP7 to confirm that the client has received the notification letter. This letter is then returned to the PGO, prior to the court date, by the APR section ([Appendix 4.8](#)).

3.6 **Court Instruction to Administer Assets**

Court of Protection order is returned to HBC enabling the council to administer assets. This order is known as the 'First General Order.' The order contains a list of itemised instructions outlining how assets are to be administered ([Appendix 4.9](#)).

3.7 **Act on First General Order.**

Each instruction within the 'First General Order' is acted upon. At this point HBC is entitled to be reimbursed for any fees paid out in connection with the application and to take the statutory fee allowed for all work done up to the date of appointment.

3.8 **Prepare Annual Accounts for Court Of Protection**

12 months from the date of the 'First General Order' accounts are prepared and sent to the Court of Protection. Accounts are then prepared annually, if required by the court.

3.9 **Ruling on Accounts**

The Court of Protection (COP) informs HBC, by letter when the accounts have been accepted. This letter also authorises HBC to take any fees due.

3.10 **Sale of House and other Assets**

Ensure all mail is re-directed to HBC Appointee Section. See guidance notes from the PGO entitled "Procedure on Sale or Purchase of Property," ([Appendix 4.10](#)).

3.11 **Tax**

Where a tax return is required this should be completed by the APR team and signed by the Receiver. If the tax return is considered complicated, an approved accountant must complete it. The service user pays for the cost of completion.

Where no tax return is required a review of the service user's tax position should be carried out each year to ensure that any refunds due to the service user are applied for. This review is to be undertaken by the APR team.

APPENDICES:

Appointee:

4.1a 4.1a Appointee Referral Form

APPOINTEE REFERRAL FORM

(ALL FIELDS MUST BE COMPLETED)

(To be completed by Care Manager/Social Worker/Community Care Worker)

Medical evidence to be attached to this referral in the form of GP/CPN report

Service User Name:

Address:

.....

.....

Telephone Number:

Is there a current Appointee? YES/NO

Name/Address of current Appointee

.....

Letter of relinquishment needed from current Appointee – Care Manager to obtain

Is property owned or rented?

Is there a mortgage? YES/NO Name of mortgage lender

Is there a tenancy agreement? YES/NO

Name of Landlord :

Amount of Rent per week

Does the service user own any other property? YES/NO Address if appropriate:

.....

Name any other occupiers:

Name of any other beneficiary relating to the property in the event of the owners' death.

.....

Address:

Previous Address of service user:

.....

Mobile Telephone Number:

Date of Birth:

CareFirst No:

Care Manager/SW/CCW:

National Insurance Number:

Next of Kin:

Address:

.....

Telephone Number:

Relationship with service user:

Is service user Section 117 YES/NO

Name of Agency providing care

.....

Does service user have to contribute to cost of care package? YES/NO

If NO please provide further information

.....

.....

WHY DOES THIS PERSON NEED AN APPOINTEE?

(Please give brief description of mental disorder, which should be obtained from an appropriate medical practitioner and supported with written evidence as above. Also include a brief social history and explanation of the current situation. Provide information on proposals for service user's care. If there has not been any recent social work involvement, please state why.

Is the service user able to make an informed decision as to who their appointee is:

YES/NO

I request that a representative of Halton Borough Council, applies to act as my appointee.

Signed Print Name

Date

FINANCIAL DETAILS:Bank/Building Society Details

Name of Bank/Building Society:

Address:

.....

.....

Sort Code:

Account Numbers: Balance

..... Balance

..... Balance

Name of Bank/Building Society:

Address:

.....

Sort Code:

Account Numbers: Balance

..... Balance

..... Balance

Please attach most recent bank statements/pass booksPost Office/National Savings Details:

Account Numbers: Balance

..... Balance

Please attach most recent statements/pass booksPremium Bonds:

Number held: Ref. Nos:

Please attachOther Capital Details:

Amount Held: In what form, i.e. shares etc.

Any other details:

.....

Please attach certificates or other relevant documentation

INSURANCE POLICIES:

Approx. value of home contents

Do they require storage? YES/NO

Name of Insured:

Name of Insurer:

Policy Number:

Amount of Cover:

Monthly/Annual Premium:

Name of Insured:

Name of Insurer:

Policy Number:

Amount of Cover:

Monthly/Annual Premium:

If necessary please continue overleaf and include any other insurances such as Pet Insurance.

Please attach any Life Insurance Policies

PENSIONS

Occupational Pension YES/NO

Pension Provider:

Ref. No:

Private Pension YES/NO

Pension Provider:

Ref. No:

Please provide most recent pay slip/s re. above**INCOME/BENEFITS CURRENTLY BEING RECEIVED:**

Please indicate how these are paid – if paid into bank account, please give bank name, account number and sort code, payment amount and frequency of payment – also a copy of the award letter is needed

	Bank & Acc. No.	Sort	Amount	Frequency
Pension Credit				
Savings Credit				
Child Benefit				
Income Support				
Incapacity Benefit				
Industrial Injuries Benefit				
Retirement Pension				
Private Pension				
Occupational Pension				
Widows Benefit				
War Pension				
Independent Living Fund				
DLA Mobility				

DLA Care

Attendance Allowance

Severe Disablement All.

Housing Benefit

Council Tax Benefit

Supported Employment £..... per week

Any Other Income:

Is anyone claiming Carers Allowance? YES/NO

Name Address/Tel No.
.....

OUTGOINGS:

Please provide copies of latest bills/invoices

	Supplier	Account No.
Gas		
Electricity		
Telephone		
Mobile telephone (Contract or PAYG please indicate)		
Insurances		
Lifeline		
Water Rates		
TV Licence		
Any other:		

Is there a Will? YES/NO

Location
Name of Solicitor

Is there a Living Will? YES/NO

Location
Name of Solicitor (if appropriate)

Any known outstanding debts? Provide details of amounts owing and what action has been taken regarding these, i.e. payment plans

HOSPITAL ADMISSIONS: In last 12 months

Admission date Discharge date

Admission date Discharge date

Admission date Discharge date

Please advise also of any short home stays within these periods:

Signature:

Date:

Care Manager/Social Worker/Community Care Worker (please delete as appropriate)

Any Other Contact, e.g. Outreach Worker/Advocate:

Name:

Organisation:

Telephone No:

ACCEPTABLE MEDICAL CONDITIONS FOR APPOINTEESHIP/COURT OF PROTECTION

Aphasia/Dysphasia following a CVA (stroke)
 Affective Depressive Disorder
 Alzheimer's Disease
 Amnesiac Syndrome
 Asperger's Syndrome
 Autism
 Arrested and Incomplete Development of Mind
 Bipolar Affective Disorder
 Briquet's Syndrome
 Cerebrovascular Disease and Cognitive Dysfunction
 Chronic Affective Disorder
 Chronic Depression/Depressive Illness
 Chronic Organic Brain Syndrome
 Cornelia de Large Syndrome (mental retardation)
 Delusional Disorder (ICD F22.0)
 Dementia/Senile Dementia
 Dependant Personality Disorder
 Diogenes Syndrome (Pseudo Dementia)
 Disability of Mind in relation to Cognitive function
 Downs Syndrome + description
 Dysexecutive Syndrome
 Dysmnestic Syndrome
 Eccentric Personality Disorder (ICD - F60.8)
 Encephalitis (Herpes simplex/viral encephalitis)
 Frontal Lobe Syndrome
 Global Deterioration of Intellectual Faculties
 Huntingdon's Chorea
 Hypomania
 Lewy Body Dementia
 Korsakoff's Psychosis
 Learning Disability/Impairment
 Microcephaly
 Multiple Sclerosis (with sub-cortical dementia or cognitive inefficiency)
 Noonan's Syndrome
 Obsessive Compulsive Disorder
 Organic Amnesiac Syndrome (FCD – F.04)
 Organic Brain Syndrome
 Organic Effective Disorder
 Organic Personality Disorder
 Paranoia
 Paraphrenia
 Parkinson's Disease (with dementing effects)
 Persistent Depressive Mood Disorder (ICD – F.34.8)
 Persistent Vegetative State
 Phenylketonuria
 Pick's Disease

Post Traumatic Stress Disorder
Profound Intellectual/Cognitive Impairment
Psychosis
Recurrent Depressive Disorder (FCD – F33.4)
Rubella Syndrome
Schizo-Affective Disorder
Schizophrenia + description
Senile Squalor Syndrome
Severe Bereavement Reaction (ICD 10)
Tourette's Syndrome
Wernicke-Korsakov Syndrome (pre Senile Dementia due to Alcohol toxicity)
Williams Syndrome

4.2

4.2 Housing Benefit Application Form



housingbenefitsclaimform.pdf

4.3

4.3 Letter of Authority for Pensions to be Paid to HBC

Gary Gordon Cleland
Leahurst Residential Home
WIDNES
Cheshire WA8 6LB

Cheshire County Council
Pensions Section
County Hall
CHESTER
CH1 1SG

Dear Sirs

Pensioner: Mr. Gary Cleland
Pension Ref: 666888
N.I. no. NI 66 76 86 B

Please accept this letter as my authority for you to correspond with Halton Borough Council, Social Services who at my request are dealing with my finances on my behalf. Please provide them with any information they may require in order to assist them to deal with my finances and please ensure that all future correspondence regarding my pension, including payslips and form P60 are forwarded to them at the following address:

Client Finance – APR Section
Halton Borough Council Social Services
Grosvenor House
Halton Lea
Runcorn
Cheshire
WA7 2ED

Would you also please send all future payments of my pension to the following account:

Bank	NatWest Bank, Widnes Branch, 146 Widnes Road, Widnes, WA8 6BB
Sort Code	60 19 24
A/c number	29949661
A/c name	Halton Borough Council Social Services Clients Money Account
Commencement date	as soon as possible

Yours faithfully

Mr. G. G. Cleland

Date



MEMORANDUM

TO: APPOINTEE AND RECEIVERSHIP SECTION

FROM:

PHONE:

APPOINTEESHIP REQUEST FOR ADDITIONAL MONIES

CLIENT'S NAME:

Social Worker:

Please arrange for an additional:

Cheque payment of £.....(FOR CASH) OR

Cheque payment of £..... (Made payable to:)

To be supplied on:

To be collected from/Sent to:

.....

To be collected by (SW/Carer/Client):

Reason for Request:

.....

..... **This arrangement is: Temporary/Permanent**

C.C.W/SOCIAL WORKER: **Date:**

TEAM LEADER AUTHORISATION: **Date:**

For office use:

Cheque Number: **Date Written:**

4.5 Receivership checklist

Checklist for receivership referrals

The following are in addition to the checklist for appointee referrals:

Obtain up to date application form from Public Guardianship Office

Write to next of kin advising HBC are applying to act as Receiver

Write to doctor with CP3

Request detailed background info from SW for Court

Give SW "Application for Receivership" checklist. Note all information on this checklist is required to enable the application to the Public Guardianship Office to be made.

Write to all known banks/building societies advising HBC are applying to act as Receiver

Write to insurance companies advising HBC are applying to act as Receiver
 Re property insurance
 Re contents insurance
 Re life insurance policies/endowments

Write to registrars of shares held by service user advising HBC are applying to act as Receiver

Write re Premium Bonds/National Savings Certificates advising HBC are applying to act as Receiver

Ensure all mail is re-directed to HBC Appointee Section

4.6 Request for a medical certificate CP3 (from Internet)

4.6

Medical Certificate (CP3)

<http://www.guardianship.gov.uk/downloads/CP3.pdf>

4.7 Application Forms to Court to Become a Receiver (from Internet)

4.7

Applying To Become A Receiver

[http://www.guardianship.gov.uk/downloads/3_Making_an_application_-_v0.4_\(Final\).pdf](http://www.guardianship.gov.uk/downloads/3_Making_an_application_-_v0.4_(Final).pdf)

Additional Forms and Documents

<http://www.guardianship.gov.uk/formsdocuments/forms.htm>

4.8 Sample Letter of Notification to Relatives (from Internet)

4.8

Notification Letter

<http://www.guardianship.gov.uk/downloads/Notlet.pdf>

4.9 First general Order (example)

4.9

COURT OF PROTECTION

No.....

EXTENDED GENERAL ORDER dated.....

**THIS DOCUMENT IS NOT VALID UNLESS IT BEARS THE
IMPRESSED SEAL OF THE COURT (IN THE BOTTOM RIGHT
HAND CORNER) ON ALL PAGES)**

**IN THE MATTER OF
(herein referred to as 'the patient')**

IT IS ORDERED as follows:

1. The holder of the office of And each and every successive holder for the time being of the said office during his or her tenure of office ('the receiver') is appointed receiver in this matter
2. In relation to the property and affairs of the patient the receiver is authorised generally for the purposes of part VII of the Mental Health Act 1983 to do or secure the doing of all such things as appear necessary or expedient for the maintenance or other benefit of the patient, and members of the patient's family, and for making provision for other reasons or purposes for whom or which the patient might be expected to provide if the patient were not mentally disordered, except those acts and things which are excluded by the restrictions set out in paragraph 5 below
3. The receiver may (without obtaining any order, direction, or authority from the court) act in relation to any other person if the patient might be expected to provide for that person's needs and the receiver may do whatever the patient might be expected to do to meet those needs if the patient were not mentally disordered
4. The receiver may (without obtaining any order, direction or authority from the court) dispose of the patient's money or property by way of gift to the following extent, but no further, that is to say:
 - a. the receiver may make gifts of a seasonal nature or at a time, or on an anniversary, of a birth or marriage, to persons who are related to or connected with the patient and
 - b. the receiver may make gifts to any charity to which the patient made or might be expected to make gifts provided that the value of each such gift is not unreasonable having regard to all the circumstances, and in particular the size of the patient's estate, and does not exceed £500 for any one person or charity in any one year
5. The receiver is **NOT** authorised to do any of the following acts or things unless expressly authorised to do so by the court by further order, direction or authority:
 - a. to execute a will or settlement for the patient

- b. to give instructions to a solicitor or any other person to draw up a will for the patient if the patient has testamentary capacity
 - c. to carry on any profession, trade or business of the patient
 - d. to exercise any power of the patient in respect of a private company as a director or shareholder
 - e. to dissolve any partnership of which the patient is a member
 - f. to conduct any legal proceedings in the name of or on behalf of the patient
 - g. to exercise any power (including a power to consent) vested in the patient, whether beneficially, or as guardian or trustee, or otherwise
 - h. to sell or purchase any investments in the patient's name
 - i. to sell any property or land that is jointly owned by the patient and one or more persons
 - j. to purchase any freehold or leasehold property with the patient's funds
 - k. to make provision for other persons' needs otherwise than in accordance with paragraph 3 above
 - l. to dispose of the patient's money or property by way of gift otherwise than in accordance with paragraph 4 above
6. The receiver is to account to the court as and when required
 7. The authority granted by this order is in addition to any existing authority granted to the receiver

Footnotes to this order:

1. For the avoidance of doubt, Paragraph 2 of this order authorises the receiver to
 - (a) withdraw from, or close any cash account belonging to, and in the sole name of the client.
 - (b) open and invest in any cash account in the sole name of the client or in the name of the receiver, as receiver for the client (i.e. *name of receiver* as receiver for *name of client*).

This order does not authorise the receiver to open any account in the sole name of the receiver, or in any name other than the client's name.

2. Paragraph 5(h) of this order precludes the receiver from purchasing, selling or redeeming investments without a separate authority. The following list gives examples of investments but is not exhaustive:
 - Stocks and Shares
 - National Savings Certificates
 - Premium Savings Bonds
 - Annuities
 - Fixed Term Bonds
 - PEPS
 - ISA'S

4.10 Procedure on Sale or Purchase of Property (guidance notes)

4.10

COURT OF PROTECTION

PN4A (June 2003)

Public Guardianship Office, Archway Tower 2, Junction Road, London N19 5SZ

PROCEDURE ON SALE OR PURCHASE OF PROPERTY**(1) Introduction**

This procedure note outlines the legal and other requirements in dealing with the sale and purchase of land and property. References to a solicitor apply equally to a licensed conveyancer who has been instructed on behalf of a patient. These notes are not applicable to a sale of property where the patient is the joint owner; see paragraph 7 for further information.

It is assumed that solicitors acting on sales of residential properties will be using the Law Society's Transaction Scheme and the Standard Form of Contract, and in all cases the current edition of the Standard Conditions of Sale.

(2) Agent's charges

The charges of estate agents should not normally exceed the normal rate of commission, which that agent would charge in the private sector for arranging a sale on a sole agency basis.

(3) Deciding to sell the property

Before instructing solicitors on a sale the receiver should be satisfied that the patient is unlikely to return to the property to live and that there is a good and marketable title to the property.

(4) Procedure**(1) For a sale by private treaty**

- (a) The seller's solicitors are responsible for drafting the contract and providing the usual forms and documents. A certificate of value (**APPENDIX 1**) by the selling agent should be completed as soon as a buyer has been found for the property reflecting (i) the agreed sale price and (ii) the lowest price the agent would advise be accepted for the property. This may avoid the need for a further certificate should the sale fall through. The only acceptable professional qualifications of valuers are: MRICS, FRICS, ARICS, FSVA and ASVA. Alternatively the valuer ought to have a minimum of five years experience as a valuer in the locality.
- (b) In the following circumstances the receiver should obtain evidence of value in the form of an affidavit:

1. The sale or purchase is a business property;
2. The receiver or a member of the patient's family is buying a property from the patient.

(c) A contract (which should not contain any reference to mental disorder) should be entered into by the seller acting by the receiver (or other named person) pursuant to an Order of the Court of Protection dated theday of20.....

The following special condition should be included:

The seller is selling with (full) (limited) title guarantee by (his) (her) receiver pursuant to and order of the Court of Protection dated theday of20..... A copy of the Extended General Order or other authority to sell has been supplied to the buyer's solicitors and shall be deemed to be conclusive evidence of the receiver's authority to sell. The buyer(s) and (his) (her) solicitors shall not be entitled to raise any requisition or objection relating thereto.

Notes:

- Although solicitors may be content to rely on certified copies of the Order, the PGO can supply office copies.
- The transfer will **not** be settled and approved by the Court; see paragraph 5.
- The address of the seller (if inserted) should be his home address or that of the receiver, never that of an institution.

(2) For sale by public auction

The sale may be advertised as being made "by Order of the Court of Protection." The particulars and conditions of sale must not contain any reference to mental disorder or the name of the patient. Please note the special condition set out in 4(i)(c) above.

The receiver should satisfy himself (with reference to the valuation obtained) as to the appropriate reserve price to be set and should instruct the auctioneer to that effect on a confidential basis.

The result of the auction should be reported by the auctioneer to the receiver in writing, showing the date of the sale, the buyer's name and the

purchase price.

(5) The transfer of property

(1) Terms

It is the responsibility of the solicitor acting to ensure that the Transfer is correct in all respects. (The draft clauses (**APPENDIX 11**) are provided for guidance). The transfer is **not** sealed by the Court, the Extended General Order (or Direction) for sale being sufficient evidence of the receiver's authority to sell.

(2) Implied Covenants for Title

The seller is the patient, not the receiver. A sale under an Order of the Court has no effect upon covenants for title given by the patient. These depend upon the title to the property, not upon the capacity of the seller. Accordingly, if a seller of full capacity with the patient's title would be advised to sell together with a full title guarantee, the patient should do also.

(6) Land Registry requirements

A certified or office copy of the Extended General Order or Direction authorising the sale, and, if the patient is an executing party, the purchase, should be lodged with the Land Registry.

(7) Sale of Property where a patient is co-owner

If the legal estate in land held on trust is vested either solely or jointly in a person who is incapable by reason of mental disorder of exercising his functions as trustee, before the legal estate can be dealt with under the trust of land, or under the powers vested in the trustees of land he/she must be replaced as trustee or otherwise discharged from the trust, unless the sale is to the other co-owner(s).

Consequently, in such circumstances, where the beneficial interest in the proceeds of sale is held by the co-owners as joint tenants or as tenants in common, before the property can be sold the patient will have to be removed from the position of trustee of land. In such a case it is usually necessary for a new trustee to be appointed in place of the patient, even where there may be two other continuing trustees. There must be at least two trustees (or a trust corporation) to give a discharge for the purchase money.

The PGO also needs to be satisfied as far as the interest of the patient is concerned that the price at which the property is to be sold is a proper one. Accordingly a certificate or affidavit of value (as appropriate) by a qualified valuer will have to be filed. Please therefore write to the PGO giving brief details of who holds the legal

estate in the property and in what capacity, and requesting the separate procedure notes PN8 (August 2002) on the appointment of new trustees.

(8) Entry to property between exchange of contracts and completion

Where justified, provided solicitors take all necessary steps to safeguard the patient's interests, the buyer may be allowed:

- (1) access to the property to effect repairs or decorations; the contract must contain a provision, or the buyer must subsequently agree, that if for any reason the contract is not completed, whether due to the default of the seller or not, the buyer shall not have any claim against the seller in respect of work done, and the buyer shall make good at his own expense any damage to the property.
- (2) In very exceptional circumstances subject to the Standard conditions of Sale, to enter into occupation of the property.

(9) Procedure on completion and dealing with proceeds of sale

On completion and after allowing for payment of any charges against the property (including a Local Authority charge) and for the costs of sale, please supply the PGO with a completion statement showing how the proceeds are to be dealt with. On completion and prior to re-investment of the net proceeds, you should ensure that the monies are placed on a bank or building society deposit in the firm's name with instant access at the highest rate of interest available. If the net sale proceeds are to be re-invested in other than cash form, you will need to contact the PGO for formal directions.

The proceeds of sale of land held on trust are paid to the trustees. In case of the settled land they are paid to the SLA trustees.

Section 101 of the Mental Health Act 1983 provides for the interests of a potential beneficiary under the terms of a patient's Will to be preserved when the assets representing those interests have been sold pursuant to an Order of the Court. The method usually adopted is for the net proceeds of sale to be deposited to a fund in or out of C and for such fund to be specifically "earmarked" for ease of identification. However, the patient's needs come first and such "earmarked" funds may have been used for the patient's own benefit during his/her lifetime if there are insufficient other funds available.

(10) Solicitors' charges

With the agreement of the Law Society fixed costs for conveyancing matters were introduced on 20th April 1992 as an additional category of fixed costs in the Court of Protection. Two elements are allowable, which at 1st January 2003 were as follows:

- (a) A fixed sum of £125 in every case to cover correspondence with the PGO, the preparation of the certificate or affidavit of value, and all other work solely attributable to the Court of Protection, together

with

- (b) A value element of 0.5% of the consideration up to £400,000 and 0.25% thereafter, with a minimum sum for this element of £330

As well as the fee for both the above elements, VAT and disbursements will be allowed. Fixed costs will apply to conveyancing of all types of property, and are usually reviewed annually. The latest figures can be found in Published Directions that can be found on the PGO Website.

The receiver should write to the PGO prior to sale if professional costs in relation to the sale are being sought on a basis other than fixed costs. Save in exceptional circumstances, the agreed costs procedure will not be an option.

(11) Purchase of property for the patient

A specific authority is required for purchase of property and unless the Extended General Order includes this authority it will be necessary to apply by letter for a further Order of Direction authorising the purchase. The letter should show the reasons for the purchase, the approximate cost and proposals for meeting the cost. If approval is given, an Order will issue authorising the receiver to purchase such property as may be approved.

If the purchase is being funded from an **award of damages**, the existence of the fund (which is likely to be well in excess of the purchase price) **should if possible remain totally confidential**, and efforts should be made to negotiate any discount in the purchase appropriate to market conditions and the advice given in the surveyor's report.

(12) Procedure after an Order or Direction for purchase has been made

The purchase price will have to be approved before contracts are exchanged. Generally, the surveyor's report should be sufficient evidence as to the value of the property, but in exceptional circumstances evidence of value in the form of a certificate or affidavit of value may be called for (see paragraph 4(1) (b) above). Provision for obtaining the purchase money may be included in the Order or Direction for purchase or separately.

The court does not need to approve the terms of Transfer but the draft clauses (**APPENDIX 11**) are provided for guidance. If the patient is not an executing party, no reference should be made in the Transfer to the fact that the buyer is a patient, or that the purchase is proceeding pursuant to an Order of the Court of Protection or that the buyer is acting by a receiver. The land certificate should be deposited in the patient's name at the receiver's bank for safe custody.

(13) Purchase by a minor or jointly with one or more persons

If the property is for any reason to be purchased in the names of trustees e.g. where the patient is a minor, or if the property is to be purchased by the patient jointly with

one or more persons (whether as joint tenants or tenants in common), the draft Declaration of Trust should always be sent to the PGO for approval before execution. A restriction, that no disposition shall be registered on the register of title without the consent of the Court of protection during the patient's lifetime may be required.

Solicitors will wish to consider the implications of the property being held by trustees on trust especially where a mortgage is involved. If the patient is to be included as one of those trustees, on a subsequent sale the appointment of a new trustee will be needed if the patient has not by then become the sole beneficial owner (see paragraph 7 above).

(14) Death of patient during the sale or purchase of property

The court's jurisdiction ceases on the death of a patient and in these circumstances the completion of any sale or purchase will be a matter for the personal representatives.

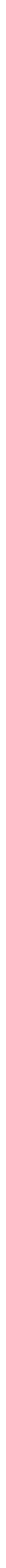
REFERENCES:

Everybody's Business, Dept of Health, 14th November 2005.

This is a new guide for older people's mental health services. Reference 2005/0400

[Everybody's business \(opens new window\)](http://www.dh.gov.uk/PublicationsAndStatistics/PressReleases/PressReleasesNotices/fs/en?CONTENT_ID=4123254&chk=6xqFai)

http://www.dh.gov.uk/PublicationsAndStatistics/PressReleases/PressReleasesNotices/fs/en?CONTENT_ID=4123254&chk=6xqFai



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