

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Policy & Resources Cabinet Board

25th July 2017

Report of the Head of Financial Services – Dave Rees

Matter for Decision

Wards Affected: All wards

Court Deputy Fees & Charges

Purpose of the Report

1. To advise members of new charges and rates in accordance with the practice direction issued by the Court of Protection with effect from 1 April 2017.
2. To seek approval to increase the winding up fee charged to the estate of deceased clients.

Background

3. The Court Deputy Section provides a service of last resort to service users who lack capacity to manage their property and financial affairs.
4. The Council is appointed by the Court of Protection to act on behalf of the service user and charges for these services are known as court deputy charges.
5. The Court of Protection set the fixed costs that may be claimed by Public Authorities acting in Court of Protection proceedings and the fixed amounts of remuneration that may be claimed from clients for the provision of services.

6. Practice Direction B was issued by the Court of Protection which outlines the increase in the fixed amounts of remuneration that can be charged with effect from 1 April 2017.
7. The table below outlines the previous and new fixed charge rates which apply where the court has appointed a holder of an office in a public authority, to act as deputy.

	Before 1/4/17	After 1/4/17
Commencement Fee (pre Court Order)	£670	£745
1st year Management Fee where net assets are more than £16k	£700	£775
Fixed Fee for subsequent years where net assets are more than £16k	£585	£650
Annual Charge when net assets less than £16k	3% of net assets	3.5% of net assets
Annual Property Management Fee	£270	£300
Annual Report to Public Guardian	£195	£216
Preparation of basic HMRC income tax return	N/A	£70
Preparation of complex HMRC income tax return	N/A	£140

Travel rates	N/A	£40/hour
Legal Cost of Conveyancing	N/A	0.15% of the consideration with min £400, max £1670, plus disbursements

8. The Council is also able to charge a winding up fee for deceased clients, which is a service provided after the Court Direction duty ends and hence not specified in the Practice direction. The current winding up fee is £250, and it is proposed that this fee is increased to £300 on hand over to Estate Executor.
9. Members should note that the Council has previously decided to only charge for this service when the clients net assets are more than £3,000. This is a local decision as there is no such specification set out by the Court of Protection. If members wish to consider a change to this local decision a consultation exercise will be carried out including an Equality Impact Assessment. The results of this exercise will then be brought back to members for consideration.

Financial Impact

10. An FFP savings target of £30k was included in the Court Deputy service budget in 2015/16, increasing the income budget to £100k, but which to date has not yet been achieved in full (the fees generated in 2016/17 were £94k).
11. The increase in fees will assist in enabling the service to achieve the income target.

Equality Impact Assessment

12. The Equality Act 2010 requires public bodies to “pay due regard to the need to:
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - foster good relations between persons who share a relevant protected characteristics and persons who do not share it.”
13. This function does not require an equality impact assessment as the charges are fixed by the Court of Protection.

Workforce Impact

14. There is no impact on the Council's workforce.

Legal Impacts

15. The service is required to implement the practice direction in order to ensure compliance with the court order appointing an officer of the authority as deputy.

Consultation

16. There is no requirement for the matter to be subject to public consultation.

Recommendations

17. It is recommended that Cabinet Board:-
- note the increase in fees included in the Practice Direction from the Court of Protection effective from 1 April 2017.
 - Considers whether to charge for services in line with the Court of Protection Charges for all services including when net assets are less than £3,000; and if so to seek a further report following consultation and completion of an Equality Impact Assessment
 - approve the increase in the winding up fee for deceased clients from £250 to £300.

Reasons for Proposed Decision

18. To ensure compliance with the Practice Direction B - Fixed Costs in the Court of Protection, effective 1st April 2017.

Implementation of Decision

19. The decision is proposed for implementation after the three day call in period.

List of Background Papers

20. Practice Direction B - Fixed Costs in the Court of Protection

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