

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

6TH AUGUST, 2009

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION KEY DECISION

Corporate, Adult Services & Social Inclusion – Cllr Mrs. Ann McCoy

APPOINTMENT OF ATTORNEY TO ACT FOR THE COUNCIL IN ADMINISTRATION OF ESTATES

1. Summary

There are occasions when a client of the Council's Social Care Services dies intestate and no relative is available to deal with the administration of the client's estate. In such circumstances it is not unusual for the Council to be a creditor of the deceased. The purpose of this report is to seek Cabinet approval for the Head of Support Services in Children, Education and Social Care to be appointed Attorney under the Local Government Act 1972. In this capacity the Head of Support Services can then obtain Grant of Letters of Administration in the relevant Estates.

2. Recommendations

1. Cabinet is asked to appoint Mr. A.J. Beckwith, Head of Support Services, Children, Education & Social Care as the Council's Attorney for the purpose of obtaining Grant of Letters of Administration in relevant Estates of deceased clients of the Council under section 101 of the Local Government Act 1972.

3. Reasons for the Recommendations/Decision(s)

As Attorney, the Head of Support Services will be able to obtain Grants of Letters of Administration of Estates where the clients have died intestate but owing money to the Council for services provided prior to death.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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KEY DECISION**

**APPOINTMENT OF ATTORNEY TO ACT FOR THE COUNCIL IN ADMINISTRATION OF
ESTATES**

SUMMARY

There are occasions when a client of the Council's Social Care Services dies intestate and no relative is willing to deal with the administration of the client's estate. In such circumstances it is not unusual for the Council to be a creditor of the deceased. The purpose of this report is to seek Cabinet approval for the Head of Supports Services in Children, Education and Social Care to be appointed Attorney under the Local Government Act 1972. In this capacity the Head of Support Services can then obtain Grant of Letters of Administration in the relevant Estates.

RECOMMENDATION

Cabinet is asked to appoint Mr. A.J. Beckwith, Head of Support Services, Children, Education & Social Care as the Council's Attorney for the purpose of obtaining Grant of Letters of Administration in relevant Estates of former clients of the Council under section 101 of the Local Government Act 1972.

DETAIL

1. Although not common, there are occasions when a client of the Council's Social Care Services dies intestate and has some funds usually in bank or other accounts. It is also the case that there are either no relatives alive, known or willing to administer the client's estate.
2. The client may also owe money to the Council for either non residential or residential care provided by the Council but for which there is a client contribution. If no action takes place the funds will remain in dormant accounts.
3. For the Council to obtain the money due as contributions the only means is for it to seek Grant of Letters of Administration in each estate and follow legal process through the Probate Registry.
4. As a statutory corporation the Council has powers to grant a Power of Attorney under Section 101 of the Local Government Act 1972 which provides that a Council can arrange for the discharge of any of its functions by an Officer of the Authority and further, under section 11 of the same Act an Authority has the power to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its functions.

5. Subject to Cabinet appointment the Head of Support Services can then undertake the appropriate actions that will obtain the debt owed to the Council.

FINANCIAL IMPLICATIONS

6. This proposal seeks to ensure that debts owed to the Council are retrieved.

LEGAL IMPLICATIONS

7. Outlined in paragraph 4 above, this proposal seeks to facilitate the Council's functions.

RISK ASSESSMENT

8. This proposal is categorised as low to medium risk. Existing Management Systems and daily routine activities are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

There is no direct impact of any of the policy areas though the proposal will assure greater income in the Health theme.

CONSULTATION INCLUDING WARD/COUNCILLORS

This proposal could be applied for any resident of the Borough and is not ward specific. It constitutes a legal process to retrieve debts owed to the Council and wide consultation is not appropriate.

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Background Papers

None

Ward(s) and Ward Councillors:

Borough wide proposal

Property

Not applicable.