

CABINET

Date of Meeting	Tuesday 23 July 2024
Report Subject	Charging for Appointeeship
Cabinet Member	Cabinet Member for Social Services and Well-being
Report Author	Chief Officer Social Services
Type of Report	Operational

EXECUTIVE SUMMARY

Flintshire County Council offers services through its Deputyship Team to help vulnerable individuals to manage their financial affairs. Support is offered by undertaking a role as either an Appointee of the Department of Work and Pensions (DWP) or a Deputy of the Court of Protection (COP). A DWP Appointee receives an individual's DWP benefit payments and is able to support them to budget and pay their rent and utility bills.

To date this work has been undertaken free of charge. It is proposed that the Council charge a sliding scale management fee to individuals for whom the Council acts as a Corporate Appointee.

RECOMMENDATIONS

1	This report seeks Cabinet's approval to implement a charging structure for local authority managed Appointeeship cases.
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REPORT DETAILS

1.00	BACKGROUND AND CONTEXT
1.01	<p>Flintshire County Council offers services through its Deputyship Team to help vulnerable individuals to manage their financial affairs. Support is offered by undertaking a role as either an Appointee of the Department of Work and Pensions (DWP) or a Deputy of the Court of Protection (COP). A DWP Appointee receives an individual's DWP benefit payments and is able to support them to budget and pay their rent and utility bills.</p>
1.02	<p><u>The role of an Appointee</u></p> <p>An Appointeeship allows a designated individual to manage benefit payments on behalf of someone else (the claimant). This arrangement is set up through the Department for Work and Pensions (DWP).</p> <p>Typically, an Appointeeship can be sought when an individual lacks the capacity to manage their own finances. This can be for a wide variety of reasons, for example could include some Learning Disabilities, Mental Health issues, Physical Disabilities or Dementia. The appointee ensures that the claimant receives the benefits they're entitled to, handles administrative tasks related to benefit claims and supports the individual to budget. The Appointee is responsible for managing the benefit payments (which are paid directly to the appointee) and a small and limited amount of cash savings that they may have, in the claimant's best interests.</p> <p>An appointee can be either, an individual (e.g., a friend or relative), or an organisation or a representative of an organisation (e.g., a solicitor or local council).</p> <p>An Appointeeship is recognised as an ability to act for an individual in relation to their DWP claims and is not a legal authority to act in other matters or with other organisations.</p> <p>An Appointeeship is granted and overseen by the DWP.</p> <p>At present Flintshire County Council does not charge for DWP Appointeeship services.</p>

1.03	<p><u>Court of Protection Deputyship</u></p> <p>If the person's financial affairs are more complicated (for example if they have additional sources of income outside of the DWP, investments, significant savings or a property), then an application for Deputyship through the Court of Protection is required.</p> <p>Under a Deputyship, the Deputy undertakes responsibility for the management of all of a person's financial affairs if they become incapable of doing so themselves, including savings, pensions, all sources of income, and assets such as property and valuables.</p> <p>A Deputyship is a legally appointed role and comes with greater powers and legal authority over the individual's finances. A Deputyship is overseen by the Office of the Public Guardian who monitors work undertaken.</p> <p>The Court of Protection set out guidelines for the fees that Court Appointed Deputies can charge for their services. Where Flintshire County Council is appointed as a Deputy charges are applied in line with the associated guidelines.</p>
1.04	<p><u>The Mental Capacity Act 2005</u></p> <p>The Mental Capacity Act 2005 provides the legal framework for acting and making decisions on behalf of adults who lack the capacity make particular decisions for themselves. The Mental Capacity Act states that in supporting individuals who lack capacity, the least restrictive option should always be used and therefore many cases are able to be appropriately managed without the more restrictive powers of the Deputyship Order.</p>
1.05	<p><u>DWP Guidance</u></p> <p>The DWP do not have specific guidance on charging for Appointeeship Services, but states:</p> <p><i>“The DWP does not directly pay appointees for their services. However, appointees can charge fees to the claimant for their assistance. Charges may vary based on the specific services provided and the claimant's circumstances.”</i></p>

1.06	<p><u>Current Situation</u></p> <p>The Flintshire County Council Deputyship Team currently consists of 4 full time, permanent Officers, supported by 2 full time Admin support (one permanent, one temporary until the end of August 2024).</p> <p>The Deputyship Team will only support to manage an individual's financial affairs if there is no other suitable person to undertake this role (i.e., a family member or friend) and/or where there is evidence of conflicting interests, suspicions or accusations of abuse.</p> <p>Across the team, there are currently 231 Appointeeship and 104 Deputyship* Cases. The number of cases supported has consistently increased year on year and shows no sign of slowing. Additionally, the complexity of these cases is growing, taking more time per case for Officers.</p> <p>*Charging under this proposal is in relation to Appointeeship cases only. Deputyship cases are currently charged under Court of Protection and Office of the Public Guardian guidelines.</p>
1.07	<p><u>Reasons For Change</u></p> <p>The Appointeeship Service is not a statutory service meaning the authority is not legally obliged to provide this. However, given the number of individuals who we support currently and the high number of referrals received it is clear there is a need for this.</p> <p>Budgetary pressures on local authorities are well documented and the coming years are reported to likely to be the “<i>most challenging that we have ever faced</i>”. Due to this, consideration is being given to charges levied for services to ensure they can continue into the future.</p> <p>The current financial climate is more unstable than ever with significant financial pressures and increased demand. Within this context we need to ensure that services are financially sustainable. There are a number of Local Authorities in England who charge for this service, however only 3 In Wales does at present. We have contacted our neighbouring authorities to gain their insight and views on this.</p>

Comparison Services and Alternatives

Across the UK, there is evidence that there are an increasing number of local authorities who have introduced charges for their Appointeeship services. In Wales when consulted, many local authorities responded to say that they were actively considering introducing charging for Appointeeship Services in the near future and 3 responded to say that they already have charges in place.

Furthermore, DWP Appointeeship can be sought from private organisations. There are a number of such organisations operating in the UK, all of which charge for their services.

In comparing the charges levied across local authorities and private organisations, there appears to be 2 different approaches to how charges for Appointeeship services are calculated.

1. Charging a flat rate fee

The majority of charging structures set a flat rate weekly/monthly fee dependent on the individual's circumstances (i.e., community based/residential care based), with the community-based fees higher as these cases are more likely to require regular and higher levels of intervention than those in residential care.

Typically, across local authorities, the fees appear to range from £10 - £15 per week for community-based individuals and £5 - £10 per week for individuals in residential care.

For private organisations, the fees appear to range from £16 - £26.50 per week for community based individuals and £8 - £14 per week for residential care based individuals, with most offering options for different levels of support.

It is worth noting that some of those charging a flat rate fee dependent on circumstance, also include scales dependent on capital.

2. Charging on a scale based on capital

Some charging structures set their weekly fee based on the capital held by the individual no matter their circumstances, for example:

Capital of:	Charge per week:	Annual cost:
£0 - £1,999.99	Nil charge	Nil charge
£2,000 - £3,999.99	£5.00	£260.00
£4,000 - £5,999.99	£7.50	£390.00
£6,000 - £7,999.99	£10.00	£520.00
£8,000 - £9,999.99	£12.50	£650.00
£10,000 <	£15.00	£780.00

During the Social Care and Health Scrutiny Committee meeting of the 18th July, a third option was proposed by Cllr Ibbotson.

3. Charging a sliding scale – Scrutiny Proposal
Details provided below:

Capital of:	Charge per week:	Annual cost:
£0 - £5,999.99	Nil charge	Nil charge
£6,000 - £9,999.99	£10.00	£520.00
£10,000 - £15,999.99	£15.00	£780.00
£16,000 <	£20.00	£1,040.00

The proposal suggests there be no distinction between community based individuals and those living in residential care.

As can be seen in the table above, the proposal is structured that the highest fee set is double the lowest fee set and there are a reduced number of bands, to simplify the process.

Options 3 also proposed Capital disregard for property to apply when calculating capital. In reality, most cases where an application has been made for Appointeeship support and where a property is involved, would be referred as a Deputyship case due to the value of the assets and possible financial complexity.

Finally, Option 3 proposes exemption from all Appointeeship fees for individuals who do not have a friend or family member who can act as their Appointee as there is evidence of conflicting interests, suspicions or accusations of abuse.

4. Other charges

In addition to these regular ongoing fees, many organisations, both private and local authority, also charge “one off” fees for a range of different support tasks.

Most commonly for local authorities, that includes a “Start-up fee” which ranged from £150 - £250 which covers:

- The application process with the DWP,
- Setting up the Appointeeship bank account and any required standing orders, direct debits
- Setting up a pre-paid card

Also, a “Wind-Up Fee” which covers all the tasks required to close down accounts and liaise with other individuals/organisation to end the Appointeeship. Authorities state that they are charging between £150 - £375.

	<p>Other tasks and activities were also charged for by private organisations, amongst the “menu” of supplementary services, most relevant to the local authority were:</p> <ul style="list-style-type: none"> • Set up and/or ongoing management of Motability Agreement ~£250 per year. • Fees for the provision of a pre-paid card • Payment of invoices for local services (gardener, cleaner, chiropodist)
<p>1.09</p>	<p><u>Potential estimated income to the authority</u></p> <p>Under Options 1 and 2 there is a nil charge for those who have less than £2,000 in capital to ensure that any charges introduced should not have a detrimental impact on day to day living for the individual.</p> <p>Under Option 3 there is a nil charge for those who have less than £6,000 in capital to ensure that any changes introduced are only applicable to individuals with capital above the lower capital limit for working age benefits.</p> <p>Based on the individuals supported by the Deputyship Team and their capital held in May 2024, the following calculations have been made utilising the fee structures in place in other authorities to estimate the income that charges for Appointeeship services could generate for the authority.</p> <p>Details information on the calculations used to make these estimates are available in the Appendix 1.</p> <p><u>Option 1 - Charging a flat rate fee based on individual circumstances</u> The estimated potential income from this option is £133,250.00 annually.</p> <p><u>Option 2 – Charging on a scale based on capital held</u> The estimated potential income from this option is £139,620.00 annually.</p> <p><u>Option 3 – Charging on a scale – Scrutiny Proposal</u></p> <p>It has not been possible to estimate the potential income from this option based on the individuals supported by the Deputyship Team, due to the short timeframe between Committees. However, Cllr Ibbotson as the proposer, has estimated potential income from this option is £131,560 annually.</p> <p>It is suggested that further calculations be made by the Deputyship Team to provide an estimate which has been calculated using the same core information as that used for Option 1 and 2.</p>

1.10

Considering charges to set.

The above calculations have been determined to provide an estimate for this report using what appears to be average figures amongst other local authorities.

In considering any charges that the Council may wish to implement for these services, it is worth considering the operational cost to support determining what would be considered to be a fair and reasonable charge.

Cost to operate Appointeeship Services

As stated previously, the Deputyship Team consists for 4 full time Deputyship Officers (GO4) who manage a mix of Appointeeship and Deputyship Cases. The Deputyship Officers are supported by 2 full time Business Support Assistants (G02).

Including On Costs, the basic total annual cost to the authority:

Deputyship Officers: £156,028.00
Business Support Assistants: £63,260.00
Total: **£219,288.00**

(These calculations do not include management of the team time or other corporate expenses).

There was not a significant amount of information available during this initial investigation to understand how other authorities had determined what their charges for Appointeeship services would be. However, some authorities were able to share that their aim is to increase the charges over the a 3-year period to reach a position where the income generated will cover the workforce costs associated with providing the service.

Income from Deputyship fees

As stated earlier in the report, the team are already able to charge fees for the services provided to individuals with a Deputyship Order under the guidelines set by the Court of Protection and therefore already do have an income stream.

Although this can vary somewhat, in 2023-24, the team generated £77,364.93 via these charges.

The table below shows that the Option 1 and 2 fee options presented would broadly align income generation to the workforce costs of service provision. This position is consistent with the aim and approach of other authorities and provides comparative approach.

Option 3 fee option is yet to be calculated.

		Appointeeship Fees	Deputyship Fees	Total	Team Cost
	Option 1	£139,620.00	£77,364.93	£216,984.93	£219,288.00
	Option 2	£133,250.00	£77,364.93	£210,614.93	£219,288.00
	Option 3	To be confirmed	£77,364.93	To be confirmed	£219,288.00
1.11	<p><u>Future increases</u></p> <p>To sustain the balance of fees and workforce costs, the potential for future changes to the fee structure should be considered. The recommendation would be to increase the fees in line with benefit rate rises (percentage change in Universal Credit Standard Allowance) to reflect the individual's ability to pay.</p> <p>The annual review of the charging structure should also take into account the cost for delivery of the service, alongside the income received as well as ensuring the fees remain fair, equitable and transparent, and based on ability to pay.</p>				

1.12

Consultation

In order to gain an insight into individuals thoughts regarding potential charges, we conducted a brief survey with the aim of gathering information from individuals who currently receive Appointeeship services from Flintshire.

The survey was an initial exercise and consisted of three questions:

- If Flintshire County Council were to implement an administration charge for managing Appointeeship cases, how would you feel about this?
- If individuals did not feel willing to pay a charge for the service, how would you advise them to proceed e.g., Solicitor or private company.
- Any other feedback you would like to contribute about this possible change?

From analysing the responses, it is clear there are mixed views regarding potential charges with the comments being fairly mixed between individuals being happy with charges and others unhappy and expressing it may cause anxiety. There were also some responses stated they were unable to make an informed response without having further detail on the charges that were being implemented.

We also contacted ASNEW who are an advocacy service within Flintshire for their views. ASNEW commented that there are other charity services that provide a similar service who charge already. Therefore, if any charges we brought in were in line with these then this would be a fair balanced offer. They also commented that if charges will improve accessibility and service as a whole, and as long as the charges are realistic, they feel this would be a positive move.

As this was only an initial information gathering exercise, we will consult again when further decisions have been made regarding any charges and adapt the questions to suit.

	<p><u>Options for Consideration</u></p> <p>Moving forward with this service, we feel there are two options which should be considered :</p> <ul style="list-style-type: none"> - Keep the service free of charge - Introduce charging (providing details of Option 2 and 3 as part of the Consultation exercise) <p><u>Keep the service free of charge</u></p> <p>Keeping the service free of charge would not pose any risks as the service runs well currently. However it may mean that giving the current financial market, the authority is missing out on potential revenue.</p> <p><u>Introduce charging</u></p> <p>Introducing charging could potentially have a negative impact during the initial stages as finances are a contentious subject and with the service being free of charge for a long period of time some individuals may struggle to accept any new charging rules. However once established charging for the service will have a positive effect as it will bring income into the authority and enable a more sustainable approach to service provision.</p>
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2.00	RESOURCE IMPLICATIONS
2.01	None

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	None

4.00	CONSULTATIONS REQUIRED / CARRIED OUT
4.01	An initial consultation was conducted with all individuals who receive Appointeeship service and their carers as well as advocacy services and representative agencies.
4.02	Prior to full implementation we would look to undertake a full consultation regarding proposed charging structure and implementation.

5.00	APPENDICES
5.01	Appendix 1: Options for Charging for Appointeeship: Example fee calculations
5.02	Appendix 2: consultation response summary

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	Contact Officer: Katrina Shankar / Naomi Harper Telephone: 01352 701469 / 01352 702544 E-mail: Katrina.shankar@flintshire.gov.uk / naomi.harper@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Appointeeship - allows a designated individual to manage benefit payments on behalf of someone else (the claimant). This arrangement is set up through the Department for Work and Pensions (DWP).