

# Operational Decision Record

Publication Date 18/07/2022	Decision Reference Number 4676
<b>Decision Title</b>	
New 3 year contract for an Independent Financial Adviser for the Deputyship Service	
<b>Decision Value</b>	
£57,000	
<b>Revenue or Capital Spend?</b>	
Neither. Spend will be met from Citizens funds	
<b>Department</b>	
Peoples – Adult Social Care	
<b>Contact Officer (Name, job title, and contact details)</b>	
<b>Kate Dixon</b> Deputyship Programme and Change Lead Deputyship Service   Nottingham City Council   Loxley House   LH Box 40   Station Street   Nottingham   NG2 3NG Telephone : 0115 8764223 Email: <a href="mailto:kate.dixon@nottinghamcity.gov.uk">kate.dixon@nottinghamcity.gov.uk</a>	
<b>Decision Taken</b>	
<p>To approve the procurement of a Financial Adviser for a 3 year contract to work with Nottingham City Councils Deputyship Service. The current 5 year contract expired on 31st March 2022 and a further process is now required to select a Financial Adviser to work with the Service over the next 3 years.</p> <p>To delegate authority to the Director for Adult Health and Social Care to award the contract to the successful bidder providing the most economically advantageous quote and with the appropriate qualifications and experience.</p>	
<b>Reasons for Decision and Background Information</b>	

The Deputyship Service is located within the Adult Social Care department of Nottingham City Council. The Service manages the property and financial affairs of vulnerable adults who have been assessed to lack mental capacity to manage their own financial affairs. The Court of Protection have appointed the Local Authority to act as Deputy as last resort as there are no family or friends willing, suitable or able to act as Attorney or Deputy for the citizen.

The Office of the Public Guardian supervises Deputies and publishes standards to which Local Authority Deputies are required to adhere to. One of the standards (1a (5)) requires a Deputy to seek independent financial advice where appropriate to maximise the return on the clients savings and other assets.

In 2017 a Tender process was undertaken and a Financial Adviser was selected to provide financial advice to deputyship clients with over £75,000 in assets. This 5 year contract came to an end on 31st March 2022.

A new process now needs to be followed to select a financial adviser to work with the Deputyship Service over a new 3 year contract term. It is intended that any Deputyship citizen with savings over £30,000 be referred for financial advice to ensure that their assets are maximised, rather than being maintained in a low interest bearing deputyship account. The process will be to invite quotes from suitably qualified and experienced financial advisers, including the current adviser.

There will be no costs to Nottingham City Council for this consultancy service. Any fees are deducted directly from the citizen's assets / investments.

### **Other Options Considered and why these were rejected**

1. To maintain the status quo: capital to be held within the Deputyship managed Lloyds Bank 'designated client account'. This is rejected because this approach does not comply with the Public Guardians deputyship standards and the need to demonstrate due diligence in managing these citizens assets.

2. The Deputyship Service Officers to carry out research into the best interest rates available from mainstream savings options and invest money. This is rejected because this approach does not comply with the Public Guardians deputyship standards and these colleagues also do not have financial advice qualifications or experience and may select a product that results in losses being incurred.

### **Reasons why this decision is classified as operational**

The value is under £150,000 and the service is within agreed policies and services that are required to be provided.

## **Additional Information**

### Legal Advice (from original DDM)

There are no legal concerns arising from this decision. The proposal is to carry out a procurement process which will be in accordance with the Council's Contract Procedure Rules.

Advice provided by Naomi Vass (Senior Solicitor) on 11/02/2022

### Finance Advice (from original DDM)

This decision seeks approval to procure an external Financial Advisor to provide financial advice where appropriate on behalf of deputyship clients. The service will be provided for deputyship clients that have assets equal to or greater than £30k.

The cost model produced an estimate cost of £57k over three years, taking into account expected number of clients, average client investment value and anticipated fees.

The fees for this service are to be funded directly from the client's assets / investments, as a result there would be no financial commitments to the authority arising from this decision.

As per the Office of the Public Guardian standard (1a (5)) requires a Deputy to seek independent financial advice where appropriate to maximise the return on the clients savings and other assets. NCC would still retain their decision making responsibilities on behalf of the client, as per the Mental Capacity Act Code of Practice 8.61 'a deputy may seek professional or expert advice (for example, investment advice from a financial adviser or a second medical opinion from a doctor). But they cannot give their decision-making responsibilities to someone else.' NCC will also need to continue to act in Duty of Good Faith on behalf of the client as demonstrated in the Mental Capacity Act Code of Practice 8.63 'Acting in good faith means acting with honesty and integrity. For example, a deputy must try to make sure that their decisions do not go against a decision the person made while they still had capacity (unless it would be in the person's best interests to do so).'

Investing comes with risk, as the value of investments can go down as well as up however following the Standards and Code of practice will ensure compliance and help to mitigate other potential risks to the client.

Advice provided by Chanelle Poyser (Commercial Business Partner) on 13/05/2022.

## **Decision Maker (Name and Job Title)**

Name: Catherine Underwood

Job Title: Corporate Director for People

A handwritten signature in black ink, appearing to read 'A. W. A.', is centered within a light gray rectangular box.

Signed:

Dated: 15/7/22

**Scheme of Delegation Reference Number**

1

**Date Decision Taken**

14<sup>th</sup> July 2022