

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

2436

Author:

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Department:

Children and Families

Contact:

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Subject:

Deprivation of Liberty Safeguards (DoLS) - Additional Resources

Total Value:

£388,800 per year (Type: Revenue)

Decision Being Taken:

Executive function

1. Approve the carry forward of Care Act specific funding of £388,800 for DoLS Resource Requirements in 2016/17.
2. Approve the Budget Allocation and Spend of £388,800 on DoLS Resource Requirements as detailed below.

Non-executive function

3. The Corporate Director under delegation 16 approves the permanent establishment and recruitment of:
7 x Best Interest Assessors (BIA) (G grade Social Workers), 2 x G Social Workers (G grade), 1 x Health and Social Care Advisors (C grade), 1 Solicitor (I grade).
4. In addition: approval is sought to train 6 Social Workers as BIA's (an increase of 3) and to increase the capacity of the Independent Mental Health Advocates (IMCA's) / Mental Health Assessors / Paid Representatives.

Reasons for the Decision(s)

The Mental Capacity Act imposes a duty upon Local Authorities to ensure that citizens who lack the mental capacity to make decisions in regard to where they live are not unlawfully deprived of their liberty. This involves ensuring that the DoLS are followed for all citizens in those circumstances. This duty falls entirely upon the Local Authority.

Up until March 2014, the Council was adequately resourced to undertake this duty. However, on March 19th 2014 the Supreme Court ruled on two cases: P v Cheshire West and Cheshire Council & P and Q v Surrey County Council. These judgements significantly widened the remit as to where a deprivation can occur. This has meant that the DoLS team has seen a fourfold increase in referrals.

In addition to the Supreme Court judgement there has been another significant judgement: AJ v A Local Authority. This has increased the likelihood that Paid Representatives will submit requests to the Court of Protection (COP) to pass judgements on the legitimacy of an authorised Deprivation of Liberty. Each application to the COP creates a considerable amount of detailed, time consuming work which can only be completed by a Social Worker.

In order to meet the statutory duties of the Council, minimise reputational risk and risk to citizens it was previously agreed to increase the number of full time Best Interest Assessors (BIA) by 5, to create 1 additional Social Work post (to deal with the AJ ruling) and 1 Care Support Advisor (CSA). These additions were agreed temporarily until 31-3-16.

This decision is to seek permanent approval for those posts and also to seek permanent approval for 2 additional BIA Social Workers, 1 additional CSA, 1 additional Social Work post (to deal with the AJ ruling), 1 solicitor, to train 6 BIA's per year, rather than 3, and to increase the capacity of IMCA's / Paid Representatives / Mental Health Assessors by 1.

BIA is the name given to Social Workers who have completed additional training and are therefore qualified to undertake Best Interest Assessments. These assessments determine / authorise deprivations of liberty.

CSA's have been retitled as Health and Social Care Advisors. They provide administrative type support.

Other Options Considered:

With regard to the existing DoLS team: consideration was given to managing without the current temporary posts. This was rejected because it would create too much risk for individual citizens and to the Council's reputation.

With regard to the additional demand created by the 'AJ' ruling: consideration was given to dealing with this additional work within other operational teams without any additional resources. This option was rejected because it would have depleted the ability of those teams to meet their statutory duties.

With regard to the additional demands placed upon the legal team: consideration was given as to whether this additional demand could be absorbed by existing resources. Due to significant increase of work that requires the attention of the Court of Protection and therefore support from the legal team this option was rejected.

Background Papers:

Nopne.

Published Works:

None.

Affected Wards:

Citywide

**Colleague / Councillor
Interests:**

None.

Consultations:

Those not consulted are not directly affected by the decision.

**Crime and Disorder
Implications:**

Not applicable.

Equality:

EIA not required. Reasons: It would not be proportionate to complete an EIA on a decision of this nature.

Relates to staffing:

Yes

Decision Type:

Portfolio Holder

Subject to Call In:

Yes

Call In Expiry date:

29/04/2016

Advice Sought:

Legal, Finance, Human Resources

Legal Advice:

Legal Observations (employment law)

Under Section 7 of the Local Government and Housing Act 1989, any appointments to the proposed posts should be made on merit.

John Bernard-Carlin

Team Leader

Housing, Employment & Education Team

Legal Services Advice provided by John Bernard-Carlin (Team Leader) on 07/03/2016.

Finance Advice:

See attached for financial advice. Advice provided by Darren Revill (Finance Analyst) on 01/04/2016.

Advice documents: Deprivation of Liberty Safeguards - Finance Advice.doc

HR Advice:

On the basis that there is sufficient to support the permanent establishment of these post, this recommendation is supported.

If agreed, the City Council's Restructuring Principles should be adhered to in resourcing the permanent roles, where there any temporary or fixed term employees who are currently placed in these posts or who are affected by these recommendations. Advice from the Service Redesign Team should be sought where there are implications to the employment status of existing employees.

**Lynn Robinson
HR Business Partner
Children & Adults Advice provided by Lynn Robinson (HR Business Partner) on 08/03/2016.**

Signatures

Alex Norris (Portfolio Holder for Adults and Health)
SIGNED and Dated: 21/04/2016
Alison Michalska (Corporate Director for Children and Adults)
SIGNED and Dated: 21/04/2016