



Reference: RFI 1801085

Request:

Please consider the request below under the provisions of the Freedom of Information Act 2000. To be clear and in order for you to direct this request to the appropriate person, this information request relates to situations in which the authority is acting as a public deputy for an individual who lacks capacity, and that individual then dies. The aim of the request is to gain further understanding of the processes and procedures which the council, and in particular the Deputyship Team, undertake following such a death. It is assumed that there are written policies, internal guidance and officer instructions to cover the points raised below.

If the Council does not have a team that deals with deputyship/appointeeship; for individuals who lack capacity, this request will not be applicable so please respond with 'nil return' or 'n/a'.

1. Please provide the name, job title and email address of the person who oversees the Deputyship Team.
Ellie Anderson Assistant Director Business Assurance ellie.anderson@northtyneside.gov.uk
2. Has the council's Deputyship Team used a heir hunter, tracing agent or genealogical researcher to trace relatives?
yes

IF THE ANSWER TO QUESTION 2 IS 'YES', PLEASE ANSWER ALL OF THE FOLLOWING QUESTIONS:

3. Which researcher is used?
Finders International
4. On how many occasions in the past 3 years has the Deputyship Team used a heir hunter to trace relatives? 65
5. How many times was the researcher used in respect of a client who was living? 0
6. How many times was the researcher used in respect of a deceased person? 65
7. When the Court of Protection appoints the council a public deputy for an individual who lacks capacity and that individual subsequently dies, does the council's Deputyship Team continue to hold and manage the funds belonging to the deceased until a Personal Representative ('PR') takes over the administration of the estate?
Yes if the funds are held by North Tyneside Council. If the funds are held with a High Street Bank then they would follow their own procedures and we wouldn't have any involvement with those funds.
8. If not, please state to which department in the council the Deputyship Team transfers the funds and responsibility for the funds? N/a
9. If the answer to Question 7 above is that the Deputyship Team do continue to hold the funds pending appointment of a PR, please stipulate the statutory power to do so.

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We would hold onto funds in line with the British Banking Association and Law Society practices (although we are not bound by these as a Local Authority)

<http://www.lawsociety.org.uk/advice/articles/estate-admin-banking-protocol/>, where the account would be dormant until a PR made contact or an inheritor was found. As a Local Authority, we also have a responsibility for property under Section 47 of the Care Act; <https://www.legislation.gov.uk/ukpga/2014/23/section/47>. If Finders International are unable to trace any inheritors they would provide us with a report to pass the case/funds onto the Government's Bona Vacantia Division.

10. I understand that where the deceased has lost contact with their family members there may be a period of time while relatives are being traced. During this intervening period, does the council department holding the funds and responsibility for the funds pay any of the following debts from the estate of the deceased:

- a. the cost of the funeral and any officer time spent arranging it? Yes
- b. mortuary costs? Yes, if applicable
- c. any cost involved in tracing estranged next of kin? No costs to Council
- d. other expenses payable following death such as house clearance or outstanding care home fees? Yes, if applicable, such as DWP Overpayments

11. Does the council in any way charge the estate of the deceased for officer time spent on the following: We currently charge a flat Winding Up Fee of £300 for the full administration of all deceased estates, except those where a public health funeral is required and there are no additional funds to cover this Winding Up Fee above any funds recovered for the funeral costs.

- a. coordinating with solicitors?
- b. instructing and communicating with genealogical researcher used to trace next of kin?
- c. communication with any NHS Trust or care home (where applicable)?
- d. communication with the district council, where a public health funeral is required? N/a

12. I understand that where the individual lacking capacity dies and a notification of death is made, the Office of Public Guardians ('OPG') may request a final report on the estate from their appointed deputy. From your records over the past 3 years, in what percentage of deputyships ending on the death of the client are these reports requested? 100% - if the supervision level was such that a report was already required. From June 2016 we are now required to submit a report for every deputyship case and would need to submit a final report up to the date of death for all deputyship clients.

13. When the Deputyship Team at the council prepares such a final report for the OPG, please clarify the following:

- a. does the report end at the date of the service user's death or, if not, for how long after the death does it extend? Date of death
- b. does the final report include a record of funeral and mortuary costs deducted from the estate? No
- c. does it include other expenses paid from the estate by the council following the death such as final care home fees, house clearance, costs relating to tracing next of kin and/or officer time spent on things other than arranging the funeral? No

14. In relation to the specific process of paying any outstanding fees or costs from the estate of the deceased:

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- a. please confirm which department or officer oversees this? The allocated worker in the Court of Protection Team completes an internal form with a list of all outstanding fees and account balances, which is signed off by either the Court of Protection Officer or Senior Manager, Ellie Anderson (from Q1)
- b. what is the policy for the assessment of such payments? We would determine whether the payment was justified (i.e. an acceptable charge), if there were sufficient funds to make the payments once the funeral invoice had been paid and that there was no PR already identified to make the payments/liaise with
- c. please provide copies of any and all written internal procedures, policies or other guidance documentation relating to this Form 76 (attached)

15. When a PR is appointed to distribute the estate of the council's former deputyship client:

- a. please confirm whether the PR or the solicitor that is instructed for Probate purposes are provided with a schedule of deductions that have been made. A standard letter is sent with a list of all payments made and any left outstanding to pay, along with copies of the relevant documentation and a list of all known assets
- b. If so, does this include every payment made by the council from the estate, including those made internally to other parts of the council? Yes
- c. from your records, on how many occasions in the past 3 years has the PR or their solicitor queried or challenged a payment made by the council from the estate, and on each occasion, what type of payment did this relate to? None – if the PR has already been identified and contacted we would liaise with them first to determine which payments they would like us to make direct