



LONDON BOROUGH OF BROMLEY

Education, Care and Health Services

Charging Policy

**Community Funerals, Protection of Property,
Appointee and Deputyship Service**

2014/15

1. LEGAL BASIS

Community Funerals

If there is no one who is available or willing to arrange a funeral, then the Local Authority has a legal duty to do so under Section 46(i) of the Public Health (Control of Disease) Act 1984.

Under the Act the Council is entitled to recover expenses incurred in carrying out its duties. This can be recovered from the deceased's estate or from any person who was liable for maintaining the deceased immediately before his death.

Protection of Property

Under Section 48 of the National Assistance Act 1948 the Council has a duty to take reasonable steps to prevent or mitigate the loss or damage to a person's property where the person is admitted as a patient to any hospital, is admitted to accommodation provided under Part III of this Act, or is removed to any other place under an order.

Under the Act the Council is entitled to recover reasonable expenses incurred in carrying out its duties. This can be recovered from the person referred to above or from any person who is liable to maintain that person.

Appointeeship

Where a person(P) lacks the capacity to manage his own state benefits a third party can apply to become appointee – ie to receive state benefits on behalf of "P" and manage them in his best interests.

The person or organisation applying to become appointee for "P's" benefits needs to be able, willing and suitable to perform this function.

The Secretary for the Department for Works and Pensions (DWP) is responsible for (a) determining that "P" requires an appointee; and (b) determining who the appointee should be.

Section 1 of the Localism Act 11 creates a general power of competence for local authorities to do anything that individuals generally may do. Where there isn't a specific charging power available, Section 3 of the 2001 Act makes provision for local authorities to charge for services using the general power of competence in line with the charging powers set out in Section 93 of the Local Government Act 2003

Where a local authority provides an appointeeship service there are other benefits for “P” which include:

- (a) management of his finances
- (b) avoidance of debt
- (c) protection from financial abuse
- (d) retention of their independence

Deputyship

A deputy is someone appointed by the Court of Protection to make decisions for someone who is unable to do so on their own.

The court will not appoint someone as deputy if the person is able to make their own decisions.

A deputy is responsible for making decisions for someone until either the person they are re looking after dies or is able to make decisions on their own again.

There are 2 types of deputies:

- those who look after property and financial affairs
- those who look after a person’s health and welfare

Where the Court of Protection appoints a holder of an office in a public authority to act as deputy, the Local Authority is entitled to charge fixed costs in accordance with Part 19 of the Court of Protection Rules 2007 and Practice Direction B.

This policy is in respect of the property and financial affairs deputy.

2. POLICY AIMS

The London Borough of Bromley’s charging policy for the Community Funerals, Protection of Property and Deputyship Service service has been designed to comply with the Court of Protection Rules 2007, the Public Health (Control of Disease) Act 1984 and the National assistance Act 1948.

The income generated from the charges helps to maintain and develop services for vulnerable people.

3. DEFINITION OF SERVICES PROVIDED

Community Funerals

The Council will take account of the cultural and religious background of the deceased when making funeral arrangements and will consider the arrangements made by the deceased for other family members and of information from people who knew the deceased.

If cremation is unacceptable and there are insufficient funds for private burial arrangements will be made for interment in a public grave.

Cremations usually take place at Lewisham Crematorium, Verdant Lane. In certain special circumstances, (e.g. where a partner/spouse was cremated at a local crematorium outside the Borough) arrangements can be made for the funeral to take place at that location, as long as there are sufficient funds available.

The public grave is located at Magpie Hall Lane, Bromley. This is an unmarked grave where up to four people are buried.

Protection of Property

The Education, Care and Health Service have a statutory duty to protect property in certain circumstances. Protection can be provided for moveable property when the owner has to go into hospital or a care home or is made the subject of a Place of Safety Order. The Local Authority must be clear that the property is at risk or in danger, and that no other person is able to act.

Buildings can be secured, which means taking reasonable steps such as locking doors and shutting windows. If valuables such as cash, jewellery, or antiques have been left in a property, or pets have been left alone, then further action may be necessary. Permission from the owner must be sought to enter the property, except where the person is unable to give it.

The usual practice is for a member of the Appointee and Deputyship Team and a Care Manager/Care Coordinator to enter the premises and carry out any action necessary to protect the property, making sure that the owner's best interests are met.

Appointeeship

As Appointee the local authority is responsible for:

- claiming and receiving any social security benefit, social security pension, social security allowance or tax credits credit to which the person is entitled,
- spending it in the person's best interests for example by paying fees for a nursing or care home or for care at home and meeting everyday living costs.

The Department of Works and Pensions provides guidance on the obligations of an Appointee.

Deputyship

As Deputy we must:

- only make decisions in the other person's best interests
- only make the decisions the court says they can make
- apply a high standard of care when making decisions

Our role is to manage and use the client's money and assets in a way that is in their best interests. This requires more than just paying regular bills. We also consider spending on activities or items that will improve or enhance the client's quality of life.

These are some examples:

- New clothes, hairdressing, aromatherapy, art sessions;
- Items for their home or room in the care home;
- Paying for extra support so the client can go out more e.g. to religious services, to visit friends/relatives/places that are special to them or to go on holiday;
- Making a regular payment for gardening services or a fortnightly delivery of flowers

If the client owns a property and is in alternative accommodation then we will:

- Remove any valuable items and ensure the property is secured

- Arrange for a plumber and an electrician to turn off the supplies
- Carry out regular visits to the property to validate the insurance cover
- Arrange valuations for their personal possessions
- Arrange for the property to be valued by 3 estate agents with a view to selling the property.
- Manage income and investments to pay care bills

The Office of the Public Guardian monitors the role of the deputy and the deputy is required to submit annual financial reports.

4. CHARGES EFFECTIVE FROM 2014

Community Funerals

Registering a death (Excludes the cost of the certificate)	£15
Administration fee for arranging the funeral (Burial/Cremation)	20% of the funeral cost up to £350

Protection of Property

Full property search	£120
Storage of property	Actual cost
Property visit (per visit, per staff member)	£40
Boarding of pets	Actual cost
Referrals to Treasury Solicitor (TSol)	up to £350

Appointeeship

Annual management fee payable on the anniversary of the appointment as Appointee.

Assets below £16,000 3%

Assets of £16,000 and above

- for the first year £700 (plus VAT)
- for the second and subsequent years: £585 (plus VAT).

Deputyship

Statutory Fees

Fixed costs in accordance with Part 19 of the Court of Protection Rules 2007 and Practice Direction B.

Category I

Work up to and including the date upon which the court makes an order appointing a deputy for property and affairs.

£670 (plus VAT)

Category II

Annual management fee for property and affairs, payable on the anniversary of the court order:

Assets below £16,000 3%

Assets of £16,000 and above

- for the first year £700 (plus VAT)

- for the second and subsequent years: £585 (plus VAT).

Category III

Annual property management fee to include work involved in preparing property for sale, instructing agents, conveyancers, etc or the ongoing maintenance of property including management and letting of a rental property.

£270 (plus VAT)

Category IV

Preparation and lodgment of an annual report or account to the Public Guardian

£195 (plus VAT)

Where the period for which the annual management fee ends before an anniversary, for example where the deputyship comes to an end before the anniversary of appointment, then the amount claimed will be apportioned.

Non- Statutory Fees

Administration Fee (if the client dies)

Where there is a property £210

Where there is no property £300

Administration Fee where the Council applies for Probate and manages the Estate £1,500