

DERBYSHIRE COUNTY COUNCIL

CABINET MEMBER

31 August 2017

Report of the Strategic Director for Adult Care

APPOINTMENT OF NOMINEE TO ADMINISTER ESTATES

ADULT CARE

1 Purpose of Report

To seek approval to appoint Julie Vollar, Service Director for Commissioning & Performance, to act as Nominee for the purposes of applying for Probate to administer Estates where necessary in order to recover Adult Care debt.

2 Information and Analysis

Adult Care is encountering an increasing number of cases where there is no willing or suitable individual to act as the Executor or Administrator of Estates in respect of a number of deceased service users. Provision of a Grant of Probate/Letters of Administration, and subsequent administration of the estate would result in payment of outstanding charges due to Adult Care for services to the deceased service user.

Where there is an outstanding debt to Adult Care, the Council is a creditor and as such is entitled to apply to administer the estate. However, an estate can only be administered by a named individual. Therefore, in order to pursue this, the Council must nominate an individual to apply for probate. It is proposed that Julie Vollar, Service Director for Commissioning and Performance be nominated to act for the Council to administer estates where appropriate.

Although acting for the Council, the nominated person would be personally responsible for ensuring proper administration of the estate. However, whilst acting as the nominee, Ms Vollar would be covered by the Council's insurance policy so the Council would indemnify the nominee against any personal loss. In addition, legal advice regarding the administration process would be provided to her.

3 Financial Considerations

Costs associated with the administration of the Estate are recoverable from the estate funds. This process would only be instigated where the estate is of sufficient value to cover the cost of the process as well as enabling the Council to recover a reasonable sum.

4. Legal and Human Rights Considerations

In order to secure a Grant of Probate the Council has to appoint a designated person to apply, as Nominee, for Probate as an institution cannot apply. The named person will be responsible for ensuring that the estate is administered correctly.

In each case, the Council will appoint external solicitors with particular expertise to act in the administration of the estate so as to ensure that it is done so correctly. In order to secure this, the Nominee will appoint a Partner at the solicitors firm to act as their Attorney. Nevertheless, the nominated individual for the Council will ultimately retain personal responsibility attached to the administration of the estate. Such liability will be indemnified by the Council's Insurance scheme for Officer Indemnity and additional indemnity will also be available under the provisions of the external solicitors' professional indemnity insurance.

5. Other Considerations

In preparing this report the relevance of the following factors have been considered:- human resources, equality of opportunity, health, environmental, transport, property and crime and disorder considerations.

6. Background Papers

File held by the Director of Adult Care

7. Key Decision?

No

8. Is it necessary to waive the call-in period?

No

PUBLIC

9. Officer's Recommendation

That Julie Vollar be appointed as nominee for the Council for the purposes of administering estates.

JOY HOLLISTER
Strategic Director for Adult Care