

Protection of property policy

Draft

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Introduction

The Care Act 2014 places a statutory duty on local authorities to protect the property of adults with care and support needs who are unable to do so for themselves.

Policy aims and principles

To ensure ESCC provides appropriate support to clients where protection of property duties are identified.

To ensure that support provided meets the requirements of the Care Act.

To ensure protection of property interventions are proportionate and that costs to ESCC and the person are minimal.

Scope

ESCC must take all reasonable steps to protect the moveable property of an adult with care and support needs in the following circumstances:

- The adult is being cared for away from home, ie. in hospital or accommodation such as a care home.
- The adult cannot arrange to protect their property themselves, and there is no other individual who can assist them ie. a Deputy, Appointee, family, friend or neighbour.

Property includes furniture, private possessions and pets.

- ESCC believes that if we do not take action there is a risk of the adult's moveable property being lost or damaged.

Exclusions

Where a person has family support or formal support with a Lasting/Enduring Power of Attorney or Deputy there is no statutory duty for local authorities to assist.

Consent

The adult must consent to protection of property intervention, where they are able. If they lack capacity, a person with the authority to act for them, under the Mental Capacity Act 2005, must give their consent.

Where the client is not able to consent and no one has authority to do so on their behalf, ESCC must, under Section 4 of the Mental Capacity Act 2005, act in the person's best interests.

In such cases, a detailed recording of the client's lack of capacity to make decisions or issue instructions about the protection of their property will be made, and a record of the best interest decision kept on their file.

If a person does not wish us to intervene, mental capacity will be considered, and the best interests of the person, property or any animal living in the property will be taken into account when considering what actions we may or may not take.

Charging for costs incurred in protecting property

Local authorities can recover reasonable costs incurred in protecting property under the Care Act duty.

ESCC will recharge clients for the cost of actions taken on their behalf.

ESCC will make the person aware, before any action is agreed, that costs will be recharged to them. An estimate of the cost of works can be provided, should this be required.

The person will be required to sign a form of authorisation agreeing to our assistance and to repaying costs.

ESCC will send invoices to the client where they are to be recharged.

If it appears the client may not have capacity to manage their own finances, a Mental Capacity Assessment will be completed to determine this. Where the adult has no family or network to act for them, a referral will be made for ESCC to become the client's Appointee or Deputy.

A waiver of charges will be considered in exceptional circumstances for a period of 28 days ie. where the client is formally assessed not to have capacity to make a decision in respect of their property or possessions at the

time assistance is required. Any waiver will be agreed on a case-by-case basis by the Operations Manager of ASC Financial Services and the Operations Manager of the referring service.

The maximum period for any waiver agreed will be 28 days. By the end of this period a decision will be made with the person, or a best interests decision made, as to the long-term actions regarding their property and possessions.

Protecting the person's property

Securing the property

An assessment will be completed to determine what steps need to be taken to minimise the risk of theft, loss or damage to the property.

The client's social worker will inform the client of the arrangements being made to protect their property, and request they sign the form of authorisation.

Any specific instructions given by the person regarding their property will be recorded by their social worker and passed to the Protection of Property Team.

Where keys are collected from the client, receipt of the keys and the location of their storage will be recorded.

Where a visit to the adult's property is required, the first visit will be undertaken by two members of staff. This will usually be the Protection of Property Officer and the client's social worker.

Removing items from the property

Two members of staff will always be present where belongings are to be removed from the property.

ESCC will seek specific instructions from the person, or where they lack capacity the worker responsible for the person's care, before any valuables are removed from the property. Where a decision is made in the person's best interests, an assessment of their capacity regarding the decision and the best interest decision will be recorded by the worker.

An inventory will be made of any items removed from the property

ESCC will arrange secure storage for any valuable items.

If cash is recovered, all notes and coins will be counted and verified on site and entered onto the inventory sheet. If the client wishes to keep an amount of cash in hospital or care accommodation, appropriate arrangements will be made. A receipt will be requested for any monies handed to the person. Alternatively, attempts will be made to locate the person's bank records so that the cash can be paid into the appropriate account.

ESCC will record all actions taken, and record information regarding the person's belongings eg. inventories, photographs etc.

ESCC will write to the person, and confirm the actions taken to remove and store their belongings and that they will be charged for this where a cost is incurred.

A receipt will be requested for items that are returned to the person, or to the hospital or care home, for safekeeping.

Reviewing our intervention

Protection of property interventions will be short term to ensure that costs to ESCC and the person are minimal.

The practitioner will liaise with the client regularly – and no later than 28 days after protection of property assistance is first provided – to establish whether the client can take over responsibility for their possessions, or to explore other options for safeguarding their property ie. disposal.

Where a client does not have capacity and another person is identified as applying for the legal authority to act for the client, contact will be made at the earliest opportunity with that person with a view to a decision being made for protecting the person's property during the application process.

Where another person becomes an Appointee or Deputy for the client, ESCC will let that person know of any ongoing intervention and that costs are being recharged to the client so that the Appointee / Deputy can consider if they wish to take over protection of the property.

Where a referral is made for ESCC to become Appointee or Deputy for the client, protection of property intervention will continue until Deputyship is awarded and appropriate actions can be taken in respect of the client's belongings.

Protection of property intervention will be reviewed at regular intervals to ensure cases do not continue for extended periods of time.

When a client returns to their property

When the person returns to their property, ESCC will make arrangements to return to the person any items removed for safekeeping.

ESCC will make all necessary arrangements to make the property habitable, including reconnection of services and arranging for a deep clean.

Where the client is unable to return to their property

Where it is confirmed that the care will continue for an extended period or the person is unlikely to return home, ESCC will consult the client, or their representative, regarding the long-term securing of their property and the costs incurred with a view to transferring this responsibility to them.

ESCC will only retain responsibility for ensuring the person's property is secure under exceptional circumstances.

Where the person is unable to make arrangements regarding their property, and there is no other individual who can assist them, ESCC will seek authorisation to dispose of their property, or terminate their tenancy, on their behalf.

Where the person dies whilst in care

The council's responsibilities under Section 47 of the Care Act to protect a client's property cease on the death of the person.

On the death of a client, ESCC will make appropriate arrangements with the person's executors or representatives for the disposal of their property.

Legislation

Care Act 2014

Mental Capacity Act 2005