

OVERVIEW AND SCRUTINY BOARD

19 APRIL 2011

FINAL REPORT OF THE SOCIAL CARE AND ADULT SERVICES SCRUTINY PANEL – APPOINTEESHIPS

PURPOSE OF THE REPORT

1. To present the findings of the Social Care and Adult Services Scrutiny Panel's review of appointeeships.

AIM OF THE SCRUTINY INVESTIGATION

2. The overall aim of the Scrutiny investigation was to consider how the appointeeship service is delivered in Middlesbrough and whether the Council is currently providing the right level of service.

TERMS OF REFERENCE OF THE SCRUTINY INVESTIGATION

3. The panel concentrated their investigation on the following terms of reference:
 - (a) To gain an understanding of how Middlesbrough compares with other local authorities in terms of the number of appointeeships in operation.
 - (b) To consider the legal basis of introducing a charge for providing the appointeeship service and to look at whether other local authorities charge for providing this service.
 - (c) To examine the future role, remit and make up of the proposed Finance Panel and to assess how the proposals fit with the safeguarding process.

METHODS OF INVESTIGATION

4. Members of the Panel met formally on 27 January, 17 February and 10 March 2011 to discuss/receive evidence relating to this investigation and a detailed record of the topics discussed at the meetings is available from the Committee Management System (COMMIS), accessible via the Council's website.

MEMBERSHIP OF THE PANEL

6. The membership of the Panel was as detailed below:

Councillor P Purvis (Chair), Councillor F McIntyre (Vice Chair), Councillors S Biswas, D Davison, E Dryden, B Hawthorne, A Majid, J Walker, M Whatley and E Briggs (co-opted member).

REVIEW REQUEST

8. The Panel opted to undertake a review into appointeeships following a suggestion from the Head of Service for Mental Health and Learning Disabilities that this may be an area that would benefit from a review by the Panel.

BACKGROUND INFORMATION

9. With regard to the way in which appointeeships are managed in Middlesbrough it was explained that the Estates Team are responsible for dealing with all aspects of appointeeships. The Estates Team comprises of 1 Senior Estates Officer, 3 Estates Officer and 1.5 Estates Clerks.

10. In terms of what appointeeships are the panel heard that the legislative basis for an appointeeship is Regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (SI No 1968) and paragraph 1 provides as follows:

"Where –

- (a) a person is, or is alleged to be, entitled to benefit, whether or not a claim for benefit has been made by him or on his behalf; and
- (b) that person for the time being is unable to act; and
- (c) no receiver has been appointed by the Court of Protection with power to claim, or as the case maybe, receive benefit on his behalf of the Secretary of State may, upon written application to him made by a person who, if a natural person, is over the age of 18, appoint that person to exercise, on behalf of the person who is unable to act, any right to which that person may be entitled and to receive and deal on his behalf with any sums payable to him."

11. The legislation effectively states that where someone is entitled to a benefit and "for the time being is unable to act" the Secretary of State can appoint someone e.g. a family member / friend or a body of people e.g. a firm of solicitors or the local authority to act for that person and "receive and deal on his behalf" with any benefits payable to him/her.

12. In practical terms this means that if an individual is mentally incapable of managing their affairs the Department of Working Pensions (DWP) can appoint someone to act for them. The appointee is then responsible for everything to do with claimant's benefits. This includes signing all forms and reporting changes of circumstances.

13. The Panel was advised that a number of issues arise from the legislation such as;
- “for the time being” means that the inability to act can be temporary
 - “unable to act” does not necessarily mean the person lacks mental capacity – e.g. a person may have physical disabilities that prevent him/her dealing with his/her own benefits

NUMBER OF APPOINTEESHIPS IN MIDDLESBROUGH

14. With regard to the number of appointeeships in Middlesbrough the Panel heard that the Estates Team currently manage: -
- 302 appointeeships for clients living in the community
 - 211 appointeeships for residents of residential care homes
15. It was stated that nationally 90% of social care clients live in poverty and a lot of the work that social workers have to deal with arise from the financial circumstances of the client. For example the client may be vulnerable to financial abuse / financial exploitation, they may make unwise decisions relating to their benefits that can leave them in debt and /or facing eviction for none payment of rent. Or they may spend all of their benefit at once and have no means of sustaining themselves till their next benefit payment.
16. It was explained that the Estates Team is able to assist by taking on the role of appointee and ensuring that bills are paid and a regular, agreed, weekly amount is made available for living expenses. It was stated that the Estates Team appears to be highly valued particularly by care managers and its positive impact on service users was recognised in the 2010 inspection of Adult Social Care by the Care Quality Commission (CQC).
17. In 2010 the CQC noted that, ‘the council held appointeeships to oversee the use of the welfare benefits of 300 people in the community and 250 in residential care. Such action had been taken with some people because of clear abuse which had occurred and which had been the subject of safeguarding referrals and investigations. In other instances the council had taken action to minimise real risk of such abuse happening. We saw prompt action taken in several cases where financial mismanagement and/or abuse was occurring. We also saw good work done to help individuals and families manage their finances setting up systems to enable them to maintain themselves better.’¹ The CQC advised, however, that it was important to review the suitability of appointeeships regularly, as some people made subject to them were young adults whose circumstances and capabilities could change.
18. It was noted that for many care managers a referral for an appointeeship is seen in itself as a solution to their clients’ problems. The alternative to an appointeeship would be very resource intensive interventions by the care manager e.g. ensuring bills are paid, benefits received etc.
19. Given the information presented above the panel was keen to find out what proportion of appointeeship cases in Middlesbrough are taken on not because the

¹ CQC Inspection Report – Service Inspection of Adult Social Care – January - February 2010

individual lacks mental capacity but because the individual is vulnerable to financial abuse or would make unwise decisions, fail to pay bills etc. It was stated that a sample survey was undertaken recently, which highlighted that in 20% of cases the individuals referred to the Estates Team for an appointeeship had capacity but were deemed vulnerable and an appointeeship was used to safeguard them. If this sample were to be applied to the total number of people subject to a community appointeeship in Middlesbrough (302), approximately 60 people would be in this category.

20. In terms of the issues in relation to appointeeships the panel was advised that a review of the Estates Team in 2008 established an ever increasing caseload and that the projected increases have proved accurate. In 2005, for example, there were 159 community based appointeeships, this had risen to 251 in 2008 and is currently 302. It was noted that the number of referrals for appointeeships is continuing to increase and the Estate Team's ability to deal with new requests is being compromised by high caseloads. The panel heard that comparative figures with other local authorities is very limited and the information available is dated but what there is indicates that Middlesbrough has one of the highest numbers of appointeeships per head of population in the country.
21. It was noted that currently there are 3 FTE officers that deal with the appointeeship cases. A review was undertaken in 2008/09, which resulted in an increase in staff levels by 1.5FTE but despite the additional staff the number of referrals continues to increase and appointeeship cases are rarely voluntarily closed. The Panel queried how often cases are reviewed. It was explained that the cases are reviewed every six months, as part of the individual's regular care needs review.

MANAGING THE INCREASING WORKLOAD

22. Given the fact that the numbers are continuing to increase the panel queried what action is being taken to manage the increasing caseload. It was explained that the department is currently considering a revised process for dealing with appointeeship requests and that these proposals were due to be presented to the Social Care Departmental Management Team in February. In summary the proposals are:
 - Where the care manager making the referral completes a form confirming the client's lack of capacity to handle his/her own finances then the User Carer Support Services Manager will approve the application. There must be no other issues such as unresolved complex debt, lack of information relating to benefit entitlement.
 - Appointeeships would form part of any care review and continued evidence of a lack of capacity would need to be provided in all cases established as temporary lack of capacity.
 - Where the care manager feels that there is capacity but that the client would benefit from the input of Estates then a referral would be made to the Finance Panel.
23. It was explained that although the Finance Panel has yet to be established it is envisaged that it will form an important element of the Department's Adult Safeguarding function.

24. It was highlighted that the Finance Panel will not only consider care manager requests for appointeeships but will also consider cases where clients are in debt to the Department e.g. for residential and or non/residential services. The Finance Panel will consider what course of action is appropriate to pursue the debt e.g. revocation of existing appointeeships, recovery through the courts, referral to the police etc.
25. Members were advised that another issue that can arise in respect of appointeeships is where a family member / friend has been appointed by the DWP to act as appointee but then the local authority does not receive its contributions for residential or home care fees. It was advised that in such circumstance the local authority can request a revocation of that appointeeship from the DWP on the grounds of suspected financial abuse and the local authority can take over as appointee.
26. Reference was made to the referral process for residential care appointee cases and it was advised that at present this is a bit of a grey area. It was explained that often at the point the financial assessment officer goes out to undertake a financial assessment there are no relatives to contact and the individual's information needs to be established. The default position is to request an appointeeship and the decision for that request falls to the financial assessment officer. It was advised that the request should be coming from the care manager when the individual goes into the home and it should be decided at that point whether an appointeeship is required. It was noted that there does need to be a consistent approach adopted for both residential care and community appointeeships referrals, as a request for a community appointee case would not be approved unless the care manager submits a service request form.

ESTABLISHMENT OF A FINANCE PANEL

27. In terms of the establishment of a Finance Panel Members queried how the proposed Finance Panel would dovetail with the Council's safeguarding processes. It was advised that this was an area currently being looked at by the Social Care Department but that North Tyneside Council had already introduced a Finance Panel and developed a Model of Practice for identifying and tackling the issue of vulnerable adults who are subject to financial abuse. Members of the panel expressed the view that it would be beneficial to invite a representative from North Tyneside Council to a meeting of the panel to learn about their Finance Panel and find out whether any best practice can be adopted in Middlesbrough. It was noted that in Middlesbrough 30-40 safeguarding referrals are received on a quarterly basis and financial abuse is the second highest reason for a referral following neglect.

THE ISSUE OF CHARGING

28. With regard to other issues it was advised that although the Social Care Department is unaware of any other local authority charging for the provision of an appointeeship service it was put to the panel that this may be something Middlesbrough could consider should legislation allow. It was advised that initial discussions have taken place with legal and that it would be a huge step forward if the Department was able to charge for the provision of the appointeeship service.

29. The Panel queried the level of charging the Department would consider feasible for provision of the service, were it deemed legal. It was advised that based on the fee associated with managing the finances of a Direct Payment, which currently costs approximately £200 per annum per service user, the annual cost of the appointeeship service could be slightly higher, owing to the level of work involved.
30. The Chair of the Panel advised that some initial desktop research had been undertaken in respect of charging for the provision of an appointeeship service and it was apparent that some local authorities had introduced a charge for this type of service. The Panel was advised that Stockport, Wrexham and Halton had all introduced some form of charge for their appointeeship service.
31. A number of other local authorities are considering this issue and Cheshire, for example, are currently consulting on introducing an administrative charge for managing people's money on their behalf. It was highlighted that in addition to the charges introduced by some local authorities there are also a number of agencies that will act as appointees for people who lack mental capacity and they set their own charges. The Money Carer Foundation is one such agency and it charges £20 a month for the service.²
32. Given the current pressures on the appointeeship service it was advised that this is an issue that does need to be considered in Middlesbrough. In light of the information received Members queried whether the introduction of a charge would result in less appointeeships in Middlesbrough. The officers expressed the view that the introduction of a charge would result in less appointeeships. It was emphasised, however, that the Department would not be looking to make any form of profit from the introduction of a charge. The Department would simply be looking to recover some of the costs associated with the provision of the service.
33. A Member of the Panel expressed concern at the possibility of introducing a charge for a service that helps to support people who have been assessed as lacking the mental capacity to manage their own finances. The point was made that the Panel should not simply be considering the issue of whether the local authority can charge for the appointeeship service on legal grounds but also whether on ethical grounds a charge for such a service should be introduced.

TO GAIN AN UNDERSTANDING OF HOW MIDDLESBROUGH COMPARES WITH OTHER LOCAL AUTHORITIES IN TERMS OF THE NUMBER OF APPOINTEESHIPS IN OPERATION

34. Members were particularly keen to consider, as part of the review, how Middlesbrough compares currently with other local authorities within the region in terms of the number of appointeeships.
35. Reference was made to the comparative data available on the number of appointeeships and a table displaying the 2005/06 data available was provided. A copy is attached at Appendix 1. It is clear from the figures that in 2005/6 Middlesbrough had more appointeeship cases per head of population than the vast majority of the other local authorities surveyed. The question was, however, put to

² Mental illness and money: how carers can help, The Times, May 7, 2010

the panel, as to whether it is the case that Middlesbrough has too many appointeeship cases or whether other local authorities have too few.

36. When considering the figures the User / Carer Support Manager advised that a piece of work had been undertaken previously by the DWP which had shown a direct correlation between low levels of appointeeships and higher levels of fraud. The view was expressed that in areas where there are very few appointeeships there is a lot of hidden financial abuse. Whereas Middlesbrough works hard to seek out financial abuse or potential abuse and protect vulnerable adults. It was, however, also advised that the Council cannot afford to be over generous in taking on appointee cases and consideration needs to be given to what the Department can do in respect of this issue over the next 2/3 year period.
37. Having received the above information the panel was keen to gain some more recent data on how Middlesbrough compares with other local authorities within the North East region in respect of appointeeships. A questionnaire was therefore sent by the panel to all local authorities within the North East region to gain some recent data on this topic.
38. In total 7 responses were received from the other local authorities contacted and the data provided in respect of current caseloads is detailed in the table below.

Authority Name	Population	Appointee Cases (Overall) 2005/06	Appointee Cases (Overall) 2010/11	Community Appointee Cases 2010/11	Residential Care Appointee Cases 2010/11	% apptee cases per pop 2010/11	% apptee cases per pop 2005/06	All people of working age claiming a key benefit (Aug 2009)	Pension credit claimant count (Aug 2009)
North Yorkshire	599K	13	103	9	94	0.017	0.002	NA	NA
South Tyneside	151.5K	150	146	2	144	0.096	0.099	23%	11,250
Redcar & Cleveland	139.5K	NA	220	77	143	0.157	NA	23%	8,230
Newcastle	277.5K	137	240	114	126	0.086	0.086	18%	15,810
North Tyneside	195K	257	240	68	172	0.123	0.135	18%	12,170
Stockton	192.5K	NA	299	88	211	0.155	NA	19%	9,400
Northumberland	310.5K	NA	360	174	186	0.115	NA	16%	15,810
Middlesbrough	139K	362	514	302	211	0.369	0.2604	25%	8,430

39. It is evident from the information received that in 2010/11 Middlesbrough still has significantly more appointeeships per head of population than the other local authorities. In fact the percentage of appointeeship cases has increased, when compared with the 2005/6 figure of 0.2604%, which at the time was already higher than 69 of the 70 other local authorities included within the national data. In 2010/11 Middlesbrough remains the only local authority, from those surveyed in the region, to be providing an appointeeship service to over 0.2% of the population.
40. In considering specifically the number of community appointee cases it is apparent that the figures in Middlesbrough are significantly higher than any other local authority. Even when compared with Northumberland County Council, which has the second highest number of community appointee cases and a population more

than double that of Middlesbrough's, their current caseload is significantly less, 174 compared to 302.

41. It is also evident from the information received that in real terms there has been a quite significant increase in the actual number of appointeeships over the 2005/06 to 2010/11 period in Middlesbrough, Newcastle and North Yorkshire. Middlesbrough, for example, has seen a 41.9% increase, Newcastle a 75.1% increase and North Yorkshire an 87.3% increase.
42. In respect of the significant increase in the number of appointeeships in North Yorkshire it is important to point out that this increase has been from a very low base of only 13 appointeeships in 2005/6. When considering the percentage of appointeeships per head of population in 2010/11 it is evident that North Yorkshire still has significantly fewer cases than elsewhere in the region.
43. Other information was also requested from the local authorities contacted and a number of the key findings that have emerged are detailed below.
 - None of the six local authorities currently charge for their appointeeship service and other than Middlesbrough only Stockton are giving consideration to this issue. Stockton expressed the view that they would welcome a regional charge.
 - All local authorities stated that they are expecting an increase in the number of appointeeships in the next 3-year period. The level of increase anticipated ranges from 7% to 10%
 - Two of the six local authorities deliver cash to service users as part of their appointeeship service (Middlesbrough and North Yorkshire County Council) the remainder do not.
 - Appointeeships tend to be reviewed on an annual or as required basis.
 - Local authorities regard appointeeships as a last resort and for a referral to be accepted the following criteria are used;
 - (a) the client must lack mental capacity and there must be no viable alternative i.e. no other appropriate person willing / able to take over dealing with the client's finances;
 - (b) a client has physical disabilities and is unable to visit the bank;
 - (c) an appointeeship has been requested following a safeguarding adults investigation.
 - Reference was made to the issue of debt, as criteria for acceptance. South Tyneside, for example, advised that they would take over as appointee to prevent debt escalating.
 - Stockton advised that they would refuse a referral where a client has capacity and only requires appointeeship due to numerous debts.
 - In terms of evidencing lack of capacity the evidence required varied between authorities. The majority of local authorities require care managers to complete an assessment of capacity form / mental capacity assessment. Northumberland also request a medical opinion as part of that assessment.
44. The Panel was advised that since the survey was undertaken Middlesbrough's Social Care Department has revised its referral form for appointeeships and whereas previously there was no requirement for Care Managers in Middlesbrough

to complete an assessment of capacity form when submitting an appointeeship request this is now a requirement.

45. With regard to the review process it was advised that perhaps in other areas reviews are undertaken on a more regular basis and people are taken off when they reach a point where perhaps it is not felt that they need an appointeeship and can manage their finances with support. It was noted that at present the Estates Team do not receive formal confirmation from the care managers that they wish for an appointeeship to continue following an individual's review.
46. Reference was made to the enabling and reabling agenda and the need to avoid making people dependent on support. It was acknowledged that training and support would be needed in Middlesbrough to enable people to manage their own finances when they had previously received this support through an appointeeship.
47. In light of the information presented above the panel queried the various client groups and age profile of service users currently on an appointeeship in Middlesbrough. A breakdown of clients by age and client group was provided and is attached at Appendix 2.
48. It is clear from the data provided that over 69% of service users in Middlesbrough that have a community appointeeship are aged between 25-59 and in 41% of cases the service user has a learning disability. Given the relatively young age of many of the service users they could remain on an appointeeship for a significant number of years if they do not over time develop the capacity to manage their own finances. This will impact significantly on the Estate Team's ability to take on new cases.

CASE STUDIES AND ALTERNATIVES TO APPOINTEESHIPS

49. At the panel's second meeting on this topic a number of invitees including a representative from the Department of Work and Pensions (DWP), a Social Worker from the Learning Disabilities Team, an Advocate from the Citizens Advice Bureau and representatives from the Department of Social Care were in attendance. All invitees were invited to discuss why Middlesbrough has such a high number of appointeeships when compared with other local authorities, what benefits appointeeships offer and whether legally and / or ethically a charge should be introduced for the appointeeship service.
50. Members of the panel had also requested that a number of case studies be provided to highlight the types of cases that the Estate Team deals with in respect of appointeeships. It was noted that the both cases represent different sets of circumstances.

CASE 1

In the first case an older gentleman with rent arrears of £1000 was referred to the Team for an appointeeship. The arrears officer at Erimus Housing was aware of the service provided by the Estates Team and it was agreed in court that if an appointeeship was in place Erimus would not evict him. Through the establishment of an appointeeship the Estates Team would receive the gentleman's welfare benefits / pension and arrange for his bills to be paid. It was acknowledged that the gentleman did have capacity to make decisions but if an appointeeship was not in

place he would not make his rent payments. Another issue that came to light was that the gentleman had further debts and also appeared to be financially exploited by 'friends'. When asked on one occasion how he had spent £500 of his occupational pension within a few days he advised that he had spent it on 'presents'. It was advised that through the establishment of an appointeeship the gentleman is no longer under threat of eviction. The view was expressed that the gentleman does have mental capacity but is vulnerable to financial abuse.

51. Following presentation of the case the representative from the DWP advised that the DWP's position with regard to lack of capacity relates solely to the person's ability to claim the benefit and not what they do with it once they receive it. In effect lack of capacity means that the person does not understand what is involved in claiming the benefits available to them, how they access their benefits and that there is a need to report any changes in their situation which might have an impact on their entitlement to benefits. It was acknowledged, however, that the example given is a delicate situation.

CASE 2

In the second case a young gentleman with learning disabilities was unable to budget and was spending all the money he had. He also tended to default on making payments to his creditors. His mother had previously acted as appointee but had become increasingly stressed by having this responsibility and it had reached the stage where she could no longer cope. The Estates Team now acts as corporate appointee for the young gentleman and manage the benefits he receives on his behalf. The gentleman is given an amount for weekly living expenses which he collects on a daily basis due to his inability to budget. The Social Worker advised that he would be happy to complete an assessment of capacity form to confirm that the young gentleman lacks the capacity to deal with his own finances.

52. The Social Worker from the Learning Disabilities Team advised that the second case is typical of many and that the goal is to move to the young gentleman to independent living, where staff can work with him on managing his budget. It was advised that at some point he could see this young gentleman coming off an appointeeship but at the moment it would be a big step for him to take.
53. Following presentation of both cases the panel queried what options, other than an appointeeship, are available when someone is judged to have capacity but is deemed to be vulnerable. The Social Worker advised that there are a lot of people who have mild / moderate learning disabilities who have very poor judgement and can easily be exploited by family / friends or be seduced by loan sharks. It was noted that the outcomes from an appointeeship are very good, as they can give the individual the chance to have stability in their life, maintain a secure tenancy and take part in meaningful activities. The Social Worker advised that over time the individual can move towards coming off an appointeeship, although there is a need to first stabilise the individual's home situation and remove any risks from friends.
54. The DWP representative advised that when a client is vulnerable but does not lack capacity there are options available other than an appointeeship. For example, the DWP can arrange for the part of the individual's benefits to be paid directly to a third party provider including the housing provider, such as Erimus, and the utilities providers. This can help to prevent someone facing eviction for non payment of

rent, as well as prevent them from getting into debt. Reference was made to the case studies provided and a Member of the panel expressed the view that in the cases provided it would appear that the individuals lack the competency not the capacity to manage their benefits. It was acknowledged by the User / Carer Support Services Manager that in an ideal world people would be provided with the skills, training and support to develop their competencies. However, there would be resource implications involved in providing this type of support.

55. In terms of the DWP's role the panel was advised that the DWP have no control over the number of appointee applications the local authority submits. The DWP decide each application on set eligibility criteria, as follows;

To establish the need for appointee the LA should prove that the customer must, because of mental incapacity (or exceptionally, severe physical disability) be incapable of managing their affairs. If challenged the DWP must be able to justify its decision to make the appointment.

To do this the application form is usually accompanied by evidence from a suitably qualified person who has personal knowledge of the customer, e.g. a social worker, CPN or GP who has already assessed the customer's capabilities.

The appointment must never be made because it is 'convenient' either for the Secretary of State, appointee or the Corporate Acting Body. An appointee is not appropriate if the customer is simply unable to get to the bank or Building Society. Nor is it appropriate simply because the customer no longer wishes to manage their own affairs.

56. With regard to the types of physical disability that may prevent an individual from managing their own financial affairs it was advised in the DWP's Officers guidance the example given is that if someone has had a stroke and is unable to write or speak then it may be appropriate for them to have an appointeeship. The DWP representative emphasised that if a person has mental capacity but simply does not budget properly that is not sufficient to warrant an appointeeship.
57. It was acknowledged that ultimately the DWP decides on whether to approve an application. A query was raised regarding how easy it is to obtain an appointeeship. The Panel was advised that the DWP relies on the professional advice of G.P's, Social Workers or Community Nurses. It was highlighted however, that the DWP does not give up lightly, a person's right to administer his or her own benefits. The Social Worker from the Learning Disabilities Team advised that he had only ever been contacted on 3 occasions over the past 11 years by the DWP regarding applications for an appointeeship.
58. The Social Worker stated, however, that prior to the DWP representative making reference to the fact that the DWP can arrange to pay third parties including utility companies and landlords directly he'd been unaware that this was an option even though it would be a really useful for his clients.
59. Again the view was expressed that it is difficult to know why Middlesbrough has so many appointeeships but the User / Carer Support Manager expressed the view that the Estates Team has been in place for almost 29 years and are highly valued by Social Workers. Appointeeships are also seen as a resolution to often difficult

issues. It was acknowledged that the establishment of a Finance Panel will have a huge impact on the number of appointeeships, as the Panel is set to consider cases where someone is judged to have capacity but would be vulnerable. Whereas previously these referrals would have resulted automatically in an application to the DWP for an appointeeship.

60. An advocate from the Citizens Advice Bureau had also been invited to provide evidence to the panel on the issue of appointeeships from an advocate's perspective. The advocate expressed the view that when considering why Middlesbrough may have more appointeeship cases than in other areas it was important to consider the underlying factors. For example, the Department of Social Care is very proactive in moving people into supported tenancies and promoting people's independence. A very person centred approach is adopted and people with learning disabilities are supported to live independently. In other areas where there are a low number of appointeeships cases, for example, there may be higher cases of homelessness and it is important to consider all aspects. It was emphasised that because of the proactive approach adopted in Middlesbrough many problems are avoided. Reference was also made to the fact that Middlesbrough had been awarded beacon status in 2010 for 'Supporting Independent Living for Disabled Adults'.
61. With regard to the issue of competency versus capacity it was advised that capacity has to be decision specific. The person needs to understand the information they are given, be able to retain that information for long enough to make a decision as well as weigh it in the balance. If someone has never had the competencies then it must affect the person's capacity. The advocate stated that the Estates Team in Middlesbrough provides a very valuable contribution to adult protection and safeguarding.

TO CONSIDER THE LEGAL BASIS OF INTRODUCING A CHARGE FOR PROVIDING THE APPOINTEESHIP SERVICE AND TO LOOK AT WHETHER OTHER LOCAL AUTHORITIES CHARGE FOR PROVIDING THIS SERVICE

62. Another area highlighted, as being worthy of consideration, was in respect of whether a charge should be introduced for the provision of the appointeeship service and to establish the legalities of such a proposal. Legal advice was sought from the Council's legal department in respect of this issue and the Principal Solicitor provided a written briefing.

A summary of the key points is highlighted below: -

- By Section 17 Health and Social Services and Social Security Act 1983 a local authority can charge for non-residential social services which it provides under various social services statutes.
- A local authority such as Middlesbrough has a power or discretion to decide to charge service users for the services that it provides under these sections, and usually that will be for services such as home care or day care at day centres.
- However, as section 29 National Assistance Act 1948 and section 45 Health Services and Public Health Act 1968 use the more general words 'advice' and 'support', then the receipt by an appointee of a service user's welfare benefits will be covered by the

words 'advice' and 'support'. **Therefore a local authority could charge a service user for acting as their appointee.**

- If the Council wishes to start to charge it cannot just amend its current charging policy. The Council will need to follow the Fairer Charging Policy Guidance and consult on the introduction of a charge.

63. The Panel was advised that it would also be prudent to consider how many other local authorities are charging for this type of service.

LOCAL AUTHORITIES FEES FOR PROVISION OF AN APPOINTEESHIP SERVICE

64. Members were keen to gain some further information about the charges introduced by those authorities, highlighted at the initial meeting, as having introduced a charge for their appointeeship service. Contact was therefore made with the relevant officers at Wrexham, Halton and Stockport Council. The following questions were put to all three authorities;

- Why did your local authority decide to introduce a charge for your appointeeship service?
- Did the introduction of a charge for the service impact on the number of appointeeships in operation?
- How did your local authority determine the amount to be charged to service users for this service?
- Is the charge financially assessed or is it a flat rate charge?

65. A response was received from all three authorities and these are attached at Appendix 3. It is evident from the information submitted that all three local authorities that have introduced a charge have done so in an attempt to recoup some of the costs associated with the bank / post office charges that they incur in setting up and managing an individual's account.

66. Halton Borough Council, for example, currently takes 100 per cent of any interest that accrues in an individual's account as a fee for providing the service but is currently looking to introduce an annual charge of £50 per year. The decision to introduce an annual charge has resulted from the fact that the cash offices where clients usually collect their weekly allowances are closing, as part of the budget savings. Clients will instead collect their weekly allowances from the Post Office. The Council is charged by the Post Office for the provision of this service and it is anticipated that a £50 annual charge will help to cover these costs.

67. Stockport Council advised that their previous bank (Lloyds / TSB) would not allow them to continue to operate appointeeship accounts in the way they needed to and so they were forced to seek an alternative bank. The Co-op was able to provide the service the Council wanted but there were costs involved with opening and closing accounts, transactions costs and the use of the IT system. These costs are therefore passed onto the client. In Stockport there is a flat rate one off charge of a £10 for opening an account, £10 for closing an account and a £1 per month charge for operating an account. Stockport Council emphasised that the cost of the Client Finance Team are not covered by these charges and that the costs simply cover the costs of operating the accounts with the Co-op.

68. Wrexham Council was the only local authority which advised that the introduction of a charge has resulted from a growth in the number of eligible clients requiring a local authority appointee, which has placed additional service pressure on Adult Social Care. Wrexham advised that in order to address this pressure a flat rate charge of £5 per week has been introduced for all clients requiring the appointeeship service. As is the case in Stockport and Halton, Wrexham do incur a charge from National Westminster Bank for the provision of Clients' Monies Service (CMS), which enables the Appointee Service to manage clients' finances electronically. The cost of operating the system is currently £8000 per annum. This cost is expected to increase in the future in line with anticipated increases in the number of appointeeship cases. The £5 per week fee in Wrexham partially offsets the cost of Adult Social Care providing the appointeeship service, as well as the fees incurred from National Westminster Bank.
69. Wrexham Council advised that the finances of all appointeeship clients are appraised so as to establish levels of disposable income sufficient to apply the fee. Prior to introducing the charge Wrexham noted that external appointeeship service providers charge £14-£22 per week for the service. The £5 fee was therefore regarded in Wrexham by a local representative of a national charity as very reasonable and justified given the nature of the work undertaken.
70. It was noted by the User / Carer Support Manager that there is a pattern in the charges that have been introduced by the local authorities in that all have opted to introduce a flat rate fee. It was explained that this is a really crucial part of any charge, as it allows for an assessment of people's individual financial circumstances. It was acknowledged that where a charge is introduced a local authority cannot leave someone below what they need to live on.

VIEWS ON THE ISSUE OF INTRODUCING A CHARGE

71. At the panel's initial meeting reference was made to the National Association of Financial Assessment Officers and the possibility of making use of this forum to gain some national views on charging for the provision of an appointeeship service.
72. An email sent previously to members of this forum, by one its own members, enquired as to whether any local authority charged service users for provision on an appointeeship service and if so how much they charged for the service? In total 31 responses were received from officers throughout the country, including officers at Middlesbrough Council. No local authority that responded charged for provision of the service, although some had indicated that this was something they were currently considering.
73. From the evidence received it is clear that at present those authorities that have introduced a charge are in the minority and that the vast majority of local authorities do not charge for providing an appointeeship service.
74. The DWP representative advised that the introduction of a charge for an appointeeship service, provided by a local authority, is a relatively new innovation and in such cases local authorities are effectively charging for administering someone's benefits. The DWP representative questioned whether any of the local authorities that had gone down this route had sought the DWP's legal viewpoint on the issue of charging. It was also stated that the vast majority of appointees are

individuals who are not paid for providing this type of support. The panel was keen to follow up on this point and the DWP representative sought advice from the DWP's legal department on this issue. The advice provided is as follows;

There is nothing in law to prevent a Local Authority charging for Appointee services, there is no statutory requirement to provide such a service and as such there is no bar to making a charge. Clearly LAs have to act responsibly when determining the level of the fee otherwise arguably they would not be acting in the customer's best interests.

75. In respect of the evidence presented on the charges that other local authorities have introduced the User / Carer Support Manager advised that it is clear that the other local authorities are passing on charges they incur from the bank. It was advised that Middlesbrough is fortunate in that due to the business relationship the Council has with the bank the Council does not incur any charges for appointee bank accounts.
76. Having heard the evidence presented Members of the Panel expressed real concerns about the possibility of introducing a charge for the appointeeship service in Middlesbrough. The view was expressed that where an individual has been assessed as lacking the mental capacity to manage their own finances and no one else is available to act as appointee the introduction of a charge for providing this service would be unethical.
77. Reference was made to the estimated 20 per cent of current community appointeeship cases where individuals do not lack mental capacity but would be deemed vulnerable in managing their finances without support. Members expressed the view that in such cases, where the Council is effectively providing a money management service for an individual who does not lack mental capacity, then there would perhaps be some merit in introducing a charge. The panel queried how much income would be generated through the introduction of such a charge. It was acknowledged that the income generated would not be significant and the local authority would still need to take into account the individual's ability to pay the level of fee introduced.
78. A Member of the Panel requested that following receipt of the above information a number of organisations be contacted to ascertain their views on the possibility of a charge being introduced in Middlesbrough in respect of the appointeeship service. Age UK Teesside, Middlesbrough MIND and Mencap were contacted and a written response was received from Age UK Teesside. A copy of the response is attached at Appendix 4.
79. The Chief Executive of Age UK Teesside advises that although Age UK Teesside does not currently have a formal policy position the organisation would have serious concerns about the Council introducing a charging policy for a service designed to support vulnerable people particularly where income is mostly derived from the benefit system. The Chief Executive of Age UK does, however, acknowledge that there maybe an opportunity to charge a limited number of individuals for an appointeeship service where there income is well above the protected income level or those in receipt of 'Personal budgets' where a 'reasonable charge' could be included in the assessment.

80. The Chief Executive of Age UK Teesside also expresses the view that the way forward could involve looking at other ways to enable and empower people to manage their own finances e.g. through supporting people services, financial advocacy or opportunities presented by the personalisation agenda.

TO EXAMINE THE FUTURE ROLE, REMIT AND MAKE UP OF THE PROPOSED FINANCE PANEL AND TO ASSESS HOW THE PROPOSALS FIT WITH THE SAFEGUARDING PROCESS

81. At the panel's initial meeting on the topic reference was made to the increasing number of appointeeships and what action is being taken to address this issue. It was advised that the Department of Social Care has been considering a revised process for dealing with appointeeship requests. It was noted that part of the proposals included the establishment of a Finance Panel, which would feature representatives from the User/Carer Support Services Team, Safeguarding, operational Social Care and the DWP. The Finance Panel would essentially perform two key roles. These are outlined below;
- (a) Consider referrals from care managers where they feel that a client does have capacity but would benefit from the input of the Estates Team, thereby forming an important element of the Department's Adult Safeguarding function.
 - (b) Consider cases where clients are in debt to the Department e.g. for residential and/or non-residential services and consider the most appropriate form of action.
82. The Panel was aware that North Tyneside had been identified as delivering best practice in establishing a Finance Panel to help tackle financial abuse. An invitation was therefore extended to Alison Tombes (Senior Social Worker) at North Tyneside Council to attend a meeting of the panel.

BEST PRACTICE EVIDENCE – NORTH TYNESIDE BOROUGH COUNCIL

83. The Senior Social Worker at North Tyneside advised that North Tyneside's Finance Panel had been established approximately 5 years ago to help tackle the issue of financial abuse. It was explained that a civil approach has been adopted, as it's often very difficult to tackle issues of criminality in respect of financial abuse. In the majority of cases the perpetrator is a member of the person's family and it is therefore very rare to secure a criminal conviction.
84. In terms of the model of approach adopted in North Tyneside it was explained that a multi-agency Finance Panel is in operation and a copy of North Tyneside's Model of Practice entitled "Identifying and Tackling the very real issue of Vulnerable Adults who are subjected to Financial Abuse" was provided.
85. It was noted that the vast majority of the Finance Panel's membership is made up of local authority representatives including a Solicitor, who takes the lead for vulnerable adults, Finance, Adult Social Care and Safeguarding.
86. With regard to other organisations that are represented on the Finance Panel it was explained that the DWP play a key role on the Panel and that without their involvement the Panel would not be as effective. The PCT has a Safeguarding

representative on the Panel, as cases can involve continuing healthcare funding, as well as health issues. The Police are also represented although the Police do not attend for all cases. It was noted that the Police's involvement has been a more recent development but that the Police do share information and intelligence.

87. Members were informed that in terms of identifying financial abuse there are a number of triggers. If for example, a third party is involved in an individual's finances and there is debt to the local authority then this raises the question as to whether this is debt or abuse? In such cases the local authority will initially undertake some financial checks, usually these are in cases where someone is living in residential care, and their care home fees are not being paid. If concerns are ongoing then a referral will be made to the Finance Panel. It was stated that where someone is living in the community and there are concerns about financial abuse then North Tyneside will go through the normal safeguarding route and a strategy meeting will be convened within 72 hours.
88. In respect of the actions taken by North Tyneside's Finance Panel in response to financial abuse it was advised that very often cases are taken forward either by the DWP or the Council's Legal Department. For example, if concerns about the managing of an individual's finances have been raised and an appointee is in place the DWP can contact the appointee and request bank account statements to see how the individual's funds are being managed. If the DWP is not satisfied with the appointee's response the DWP can revoke that appointeeship and look to see if anyone else is able to take on that role. If there is no one else then the local authority will take over as the appointee. The DWP will also ask the appointee to sign to say that they are responsible for the debt that has accrued.
89. The Senior Social Worker at North Tyneside advised that where there is debt to the local authority all efforts are made to recover that debt from the third party including taking action via the small claims court. It was stated that North Tyneside do try to arrange a payment plan with the appointee to pay back the debt, although it was acknowledged that in law the debt does remain the debt of the vulnerable adult's.
90. It was explained that in the majority of cases considered by the Finance Panel in North Tyneside it is an appointee who is acting inappropriately. However, North Tyneside's Finance Panel has also dealt with Power of Attorney and Deputyship cases where the person acting on behalf of the individual has abused their position. It was noted that in order for these arrangements to be revoked the local authority has to challenge the appointment through the Court of Protection. North Tyneside has been successful in revoking some of these arrangements.
91. In terms of the outcomes achieved as a result of the Finance Panel it was stated that it is not always possible to rectify what has already happened, however it is possible to prevent further financial abuse. It was emphasised that the aims of the Finance Panel are to improve the lives of individuals, prevent future financial abuse and recover debts to the local authority.
92. A number of typical case studies were provided as detailed below: -

A nephew has Power of Attorney for his aunt and will simply not provide her with any personal monies. When challenged he sends a bag of clothes to the residential care home where she lives but the clothes are old and no longer fit. The nephew has been paying the care fees and no debts have accrued.

It was advised that in this case instead of contacting the Court of Protection North Tyneside's Finance Panel wrote to the nephew emphasising that his aunt does have the right to receive personal monies and that there is a clear need for her to receive this money. Eventually the nephew did agree to provide his aunt with some personal money. It was noted that the action taken by the Finance Panel is not always about the local authority taking over as appointee or deputy.

A family friend / son or daughter is the appointee for a vulnerable adult and is managing the individual's finances. The appointee is not, however, paying any bills and nor is the individual receiving any personal monies. In such cases the DWP will take action to revoke the appointment and the DWP will ensure that the individual who has been acting as appointee signs a form to say that they are responsible for the debt to the local authority.

Once an appropriate person is appointed to take on the role of appointee the individual will again have access to their personal money and no further debt will accrue.

A lady is taken into residential care and she has fluctuating capacity. Prior to entering care the lady owned two properties and although no formal arrangement for the management of her finances is in place a family friend is acting as a third party signatory on her bank account. The friend visits regularly but the DWP has been attempting to contact the family friend as the lady's care home bills are not being paid. The local authority puts a charge on one the lady's properties and starts to pay the lady's care home fees. The family friend is eventually contacted and advises that she has spent all the money available on the lady's care homes fees and did not know to ask for a financial re-assessment.

It was noted that this was a genuine case where someone did not understand the responsibility of the role they had taken on.

LESSONS LEARNT

93. It was explained that in terms of lessons learnt the importance of joint working is the most important lesson. It was emphasised that often partner agencies and social workers do not see finances as their problem and instead see it as the finance department's problem.
94. The other main lesson learnt has been in respect of widening the remit of the Finance Panel's work. It was explained that North Tyneside's Panel now also considers cases where an individual's homecare charges are not being paid and cases where an individual has the ability to pay for the services they receive but they simply refuse to do so. It was noted that North Tyneside are currently looking at whether the Council can do an attachment of earnings to means tested benefits

to ensure that home care / residential care charges are paid by those with the ability to pay.

FUTURE CHALLENGES

95. In respect of future challenges North Tyneside advised that one of the major challenges is in respect of training and increasing people's awareness and knowledge about the issue of financial abuse. It was emphasised that people working with vulnerable adults need to understand the different terminology that is used i.e. Power of Attorney, Deputy and Appointee and the fact that financial abuse is a big issue. It was acknowledged that it is always difficult to detect financial abuse and that in North Tyneside links are currently being made with Trading Standards, as rogue traders often target vulnerable adults. It was noted that this is a new area of work in North Tyneside but it is something that could also be considered in Middlesbrough.
96. In terms of how the Finance Panel operates in North Tyneside it was explained that the Panel meets on a monthly basis and each Panel consider about 5 to 10 cases each meeting. It was noted that where an individual has missed 2 months payments for either residential or home care services then this acts as the trigger for a referral to be made to the Finance Panel. It was explained that a period of 2 month's missed payments prevents an individual's debt levels building up to the same degree as previously and early intervention is key.
97. Members of the panel expressed the view that there appears to be a flaw in the system in that the DWP makes the decision about awarding an appointeeship but it does not then review that decision or go back to check how the appointeeship is working. Members were of the view that the DWP should take some degree of responsibility for allowing the person that they have appointed, as the appointee, to act inappropriately. It was explained that there is only so much the DWP can do and given current cuts it is unlikely that this is something the DWP will be able to undertake in the near future.
98. It was advised that once the DWP has paid the individual's benefits to the appointee then technically they have fulfilled their role. It was emphasised that without the support and co-operation of the DWP, North Tyneside's Finance Panel would not have achieved the results it has. It was advised that in the current climate it is extremely important to maintain a good relationship with the DWP.
99. It was noted that one of the very positive developments in North Tyneside has been the DWP getting the appointee to sign to say that they are responsible for the debt that has accrued and a very positive relationship had developed between North Tyneside Council and the DWP.

MIDDLESBROUGH'S PROPOSED FINANCE PANEL

100. In addition to receiving best practice information from North Tyneside the panel, as part of its review, had also requested further information on the proposals for Middlesbrough's version of the Finance Panel model. The User Carer Support Manager and Strategic Lead for Safeguarding were invited to discuss the Department of Social Care's proposals for the establishment of a Finance Panel in Middlesbrough and to respond to Members questions.

101. The Strategic Lead for Safeguarding advised that in Middlesbrough the purpose of the Finance Panel is to bring together two elements. The first relates, as in North Tyneside, to concerns over where an individual is in debt to the local authority for home care / residential care services and there is third party involved in the individual's finances.
102. The second, which differs from North Tyneside, concerns considering appointeeships referrals from care managers where the individual does not lack capacity but the care manager believes that the individual would be at risk of financial abuse if an appointeeship is not secured. The Strategic Lead for Safeguarding acknowledged that Middlesbrough probably does have more appointeeships than are needed and that there is a need to get buy in from care managers and not just finance officers on this issue. In effect the Finance Panel in Middlesbrough will also act as a gatekeeper for the approval of appointeeship requests.
103. The draft processes, including the proposed make up of Middlesbrough's Finance Panel and flow chart were provided to the panel for information. It was advised that on 23 February 2011 the Social Care Department's Management Team approved the establishment of a Finance Panel in Middlesbrough and that the first meeting of the Panel is expected to be held in April, subject to any recommendations that are made by the Scrutiny Panel.
104. It was advised that owing to the high number of appointeeships in Middlesbrough the Social Care Department's Management Team also made the decision on 9 March 2011 for all existing appointeeship cases (514 cases) to be reviewed. The Panel accepts that this will be a substantial piece of work and will involve relinquishing a number of appointeeships where there is no evidence of lack of capacity.
105. Members were advised that in the financial year up to December 2010 25% of adult safeguarding referrals in Middlesbrough related to financial abuse. In addition, evidence gathered from referrals from care managers for appointeeships and issues around client debt for chargeable services suggests that the actual levels of financial abuse could be considerably higher. It was noted that in many cases care managers perceive the application for an appointeeship as a resolution for financial abuse issues in itself and do not refer cases to adult safeguarding. It was stated, however, that the introduction of an appointeeship is unlikely in all cases to resolve financial abuse issues. It was noted that the purpose of the Finance Panel is to help address this issue and ensure that where there is suspected financial abuse the case is considered in the safeguarding arena.
106. The Strategic Lead for Safeguarding expressed the view that the Estates Team in Middlesbrough is extremely efficient and so valued that care managers are by passing safeguarding and going straight to the Estates Team where they have concerns in relation to financial abuse / exploitation of a vulnerable adult. The Senior Social Worker at North Tyneside explained that one of the reasons North Tyneside introduced a Finance Panel was to try and simplify the safeguarding process and to deal with a number of similar cases at one time.

107. The User Carer Support Manager advised that in respect of debt to the local authority 3 missed invoices in Middlesbrough is currently the trigger for an investigation. It was noted that if a third party is involved in the individual's finances then efforts are always undertaken to ensure that the third party signs to say that they are responsible for the debt.
108. It was explained that the new Finance Panel is expected to consider all new referrals for appointeeship cases where the individual does not lack capacity but is at risk of financial exploitation or abuse. All other referrals for an appointeeship will now need to be supported by evidence of the individual's lack of capacity. This means that a lack of capacity assessment will have had to be completed by the care manager in order for the referral to be accepted.
109. In terms of the Council's relationship with the DWP it was advised that Middlesbrough's relationship with the DWP is not as good as appears to be the case in North Tyneside and that at times it can be difficult to engage with the DWP locally. The view was expressed that without any buy in or commitment from the DWP then the proposed Finance Panel in Middlesbrough will not be as effective as the Finance Panel in North Tyneside.
110. With regard to the proposals for Middlesbrough's Panel it was explained that the Panel would meet on a 3 weekly cycle and would have a wider remit than North Tyneside's Finance Panel. The Strategic Lead for Safeguarding explained that one of the aims of the Finance Panel is to build up Middlesbrough's expertise on financial abuse / exploitation in order to better support people at risk of financial abuse, as it is a particularly complex area.
111. In terms of North Tyneside's experience of operating a Finance Panel the Senior Social Worker advised that the Panel has helped to increase care managers understanding and knowledge of financial abuse and the various actions that can be taken to help prevent further abuse. It was noted that at first North Tyneside's Finance Panel received a lot of referrals and the meetings were quite lengthy but the Panel now receives fewer referrals.
112. It was advised by North Tyneside that another important element, in addition to the establishment of a Finance Panel, is to deliver training on financial abuse, the various ways in which a third party can be involved in the management of an individual's finances and the rights / responsibilities this involves. It was accepted that in some cases the complexity of a case can be overwhelming for an individual worker.

CONCLUSIONS AND RECOMMENDATIONS

113. Based on evidence given throughout the investigation the Panel concluded:

How Middlesbrough compares with other local authorities

- a) In comparison with other local authorities Middlesbrough has significantly more appointeeship cases and is the only local authority, from those surveyed in the region, to be providing in 2010/11, an appointeeship service to over 0.2% of the population. Middlesbrough currently provides the service to 0.365% of the population. It is clear from the evidence presented that the high number of

appointeeship cases is impacting on the Estates Team's ability to take on new cases and action is therefore needed to reduce the current caseload.

- b) The panel has been advised that in at least 20 per cent of community appointeeship cases the Council is acting as appointee not because the individual lacks the mental capacity to manage their finances but because the individual is vulnerable to financial abuse / exploitation or makes unwise financial decisions. The department of social care has, over the course of the panel's review, looked to address this issue and a number of proposals have been put forward to help reduce the number of appointeeship cases.
- c) With regard to those individuals that make unwise financial decisions it has been recognised that appointeeships are not appropriate in such cases and that all appointeeship referrals will now require a lack of capacity / mental capacity assessment to be undertaken. It has been agreed by the social care management team that all current appointeeship cases, 514 in total, will also be reviewed to establish whether the Council should continue to act as the appointee in each case. The panel is in full support of these measures and is confident that this action will help to significantly reduce the appointeeship caseload.
- d) In respect of those individuals that are subject to an appointeeship because they are deemed vulnerable to financial abuse / exploitation it has been agreed that in the future these cases will be considered by a multi-agency Finance Panel, as part of the Council's safeguarding arrangements. The Finance Panel will consider specifically issues relating to financial abuse, which will enable the Council to further develop its ability to address this complex issue. The Finance Panel will ensure that vulnerable adults are protected from financial or potential financial abuse and that appointeeships are sought where necessary.
- e) The question was initially put to the panel as to whether in fact it is the case that Middlesbrough has too many appointeeship cases and is overprotective, or whether other local authorities have too few appointeeship cases and are not seeking to actively address the issue of financial abuse. Over the course of the review the panel has concluded that Middlesbrough is at present over generous in taking on appointeeship cases and that there is a need to reduce the number of cases. The panel is also of the view that vulnerable adults should be supported in developing the skills they need to manage their own finances and that this type of support must be provided.

The legal basis of introducing a charge

- f) In considering the legal basis for introducing a charge the panel found that legally local authorities can introduce a charge for the appointeeship service. It is evident, however, that at present only a minority of local authorities have chosen to do so. The panel is aware of 3 local authorities nationally that have introduced some form of charge / fee for their appointeeship service. However, 2 out of the 3 local authorities have only passed onto service users the charges that they incur from the bank for managing the individual's account. Wrexham is the only local authority that the panel is aware of that has introduced a weekly charge, which seeks to recover a proportion of the costs for delivering the service.

- g) In taking into account the issue of whether a charge should be introduced in Middlesbrough the panel was keen to consider not only whether it is legal to introduce a charge but also whether ethically a charge should be introduced. The views of a number of interested parties were sought on the issue of charging. Upon hearing the evidence presented the panel is of the view that it would be unethical to introduce a charge for the appointeeship service in Middlesbrough, as the service aims to assist vulnerable people who have been assessed as lacking the mental capacity to manage their benefits.

The establishment of the proposed Finance Panel

- h) The panel heard evidence from the Senior Social Worker at North Tyneside on the lessons learnt since the establishment of their Finance Panel. One of the key issues raised was the importance of partnership working and particularly the development of a strong relationship with the Department of Work and Pensions (DWP) and the DWP's commitment as a member of the Finance Panel. The scrutiny panel recognises that without the support and commitment of the DWP North Tyneside's Finance Panel would not be as effective. The scrutiny panel is of the view that the DWP's commitment as a member of Middlesbrough's Finance Panel is vital in ensuring the Finance Panel's success.

RECOMMENDATIONS

114. That the Social Care and Adult Services Scrutiny Panel recommends to the Executive:
- a) That efforts be actively made to reduce the number of appointeeships. Other alternatives also need to be explored to enable individuals who do not lack mental capacity but make unwise financial decisions to be supported.
 - b) That when reviewing the appropriateness of current appointeeship cases consideration be given to whether the appointeeship is being operated in the most effective way having regard to the resources available and the identified needs of service users e.g. delivering cash.
 - c) That no charge is introduced for the Appointeeship service in Middlesbrough.
 - d) That consideration be given to the development of a chargeable money management service for vulnerable people who do not lack mental capacity but would benefit from the type of assistance the Estates Team can provide. Sufficient evidence would be needed to demonstrate that the introduction of such a service represents value for money for both the Council and service users.
 - e) That the referral process in respect of residential care appointeeships be reviewed and it be made a requirement that a care manager is responsible for evidencing that an individual lacks the mental capacity to manage their own finances. In such cases a best interests assessment must also be undertaken.
 - f) That training be undertaken in partnership with the DWP (Pension Service and Job Centre Plus) to increase understanding amongst care managers (Social

Workers and CPN's) on when an application for an appointeeship is appropriate and how to complete an assessment of capacity form / mental capacity assessment. The sessions should also include advice on what other options are available to care managers when the individual they work with does not lack mental capacity but makes unwise decisions or is deemed vulnerable to financial abuse / exploitation.

- g) That the DWP appoint a permanent representative on the proposed Finance Panel. The Panel is concerned that without the DWP's commitment the Finance Panel in Middlesbrough will not be as effective as in North Tyneside, where a permanent DWP representative is appointed to the Panel.
- h) That the department report back to the Social Care and Adult Services Scrutiny Panel after the Finance Panel has been in operation for a six-month period to review how the panel is operating.

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Douglas Bowes – Social Worker, Learning Disabilities Team
David Jordan – Department of Work & Pensions
Lorna Laughton – Citizens Advice Bureau
Alison Tombes – Senior Social Worker North Tyneside Council
Elizabeth Briggs – Chief Executive of Age UK Teesside
Keith Lane – Appointeeship Assistant Manager, Wrexham County Borough Council
Steve Taylor - Manager - Social Care Charging, Client Finance, Fraud & Visiting, Stockport Metropolitan Borough Council
Cathy Harper, Halton Borough Council
Christine Bibby, Financial Assessments, South Tyneside Borough Council
Denise Crossen, Team Manager, Client Property & Financial Affairs, Stockton Borough Council
Karen Brown, Deputyship Office (Acting), Northumberland
Cher Thompson, Section Head Service User Finance, Newcastle City Council
Gill Dawes, Redcar & Cleveland Borough Council
Lynne Roberts, Court of Protection Team Leader, North Yorkshire County Council

BACKGROUND PAPERS

116. The following sources were consulted or referred to in preparing this report:

- Report to and minutes of the Social Care and Adult Services Scrutiny Panel Meetings held on 27 January, 17 February and 10 March 2011.
- Mental illness and money: how carers can help – The Times, May 7, 2010
- Middlesbrough Council, Care Quality Commission Inspection Report, 2010

COUNCILLOR PETER PURVIS
CHAIR OF THE SOCIAL CARE AND ADULT SERVICES SCRUTINY PANEL

Contact: Caroline Breheny
Scrutiny Support Officer, Legal & Democratic Services
Telephone: 01642 729 711(direct line)

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