



Office of the
Public Guardian



Deputy standards

Professional deputies



OPG deputy standards – professional

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Publication date: July 2015

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Ref: SD5

Introduction

These standards form an important part of our new, improved approach to supporting and supervising professional and public authority deputies.

The standards have been developed in partnership with both professional and public authority deputies and their representative bodies.

This collaborative approach has been a major factor in making sure that the standards support you in the important work you do.

The standards clearly set out what is expected of professional and public authority deputies and provide an important checklist of actions and behaviours every deputy should follow.

The standards fall into clear categories, allowing you to easily reference those appropriate to the management of your clients' affairs.

Standards one to four cover deputies acting under a property and affairs court order, while standards two to five are relevant to those with personal welfare orders. All five standards apply to deputies with orders covering both property and affairs and personal welfare.

Deputies will be assessed against the standards either through face-to-face assurance visits, assurance reviews conducted by telephone or during case reviews. Anyone selected for an assurance visit will be told in advance.

Where deputies are falling short, we can identify areas of weakness quickly and take the necessary steps with you to put things right. Where there are significant breaches of the standards, we will seek to agree an action plan with you to address deficiencies. In cases of the most serious or fundamental breaches we may seek removal of the deputy.

Most importantly, however, these standards will help you make sure your clients' best interests are served at all times.

Professional deputy standards

Standard 1: Secure the client’s finances and assets

1a: Benefits/assets/liabilities – when you receive a deputyship court order

Standards

Sources of evidence

1a (1) Search for, identify and secure assets, savings and investments at the earliest opportunity.

Records, letters and appointments attended with financial institutions and advisers. Inventory of assets and liabilities.

1a (2) Notify banks and financial institutions, where the client is known to hold an account, of the court order.

Records, letters and appointments attended with financial institutions and advisers.

1a (3) Where there are other sources of income, for example, private pensions, notify the provider of the court order.

Records, letters and appointments attended with financial institutions and advisers.

1a (4) Identify, review and secure all benefits the client may be entitled to. Submit claims and lodge appeals at the earliest opportunity.

Records, letters and appointments (if applicable) with DWP, use of specialist benefit software or consultation with benefits advisers.

1a (5) Seek independent financial advice, where appropriate, to maximise the return on the client’s savings, investments and any other assets.

Record of financial advice received and subsequent investments made.

1a (6) Seek recovery of any money or assets owed to the client, by the way of debts and/or loans, for example rent from lettings or utility accounts in credit.

Record of letters to and from organisations or individuals. Inventory of assets and liabilities, for example, utility companies, banks, loan companies.

Standards

1a (7) Ensure scrutiny of and, where appropriate, payment of any liabilities by the client, for example utility bills and care home bills.

Sources of evidence

Record of letters to and from organisations or individuals. Inventory of assets and liabilities, for example, utility companies, banks, loan companies.

1a (8) Estimate/project deputyship annual management fees to follow Practice Direction B – Fixed costs in the Court of Protection.

Show evidence of keeping deputyship costs in proportion to the client's assets. OPG 102.

1a (9) Open a deputyship account in the client's name with the deputy named as such on the account. Ensure that all funds held for the client are held in accounts and/or investments in their name and kept separate from the funds of the deputy or other parties.

Copies of financial records and statements showing funds are held in accounts in the client's name. Record of letters and conversations with financial institutions showing requests for the opening of deputyship accounts.

1b: Benefits/assets/liabilities – ongoing

1b (1) Carry out benefit and public authority funding reviews at least once a year, ensuring any changes in the client's assets are reported promptly.

Record of benefit and public authority funding reviews, contact with DWP and date of last review.

1b (2) Ensure that staff hold appropriate skills and knowledge of benefits through regular training and updates (including criteria for eligibility and how to apply).

Training plan, skills matrix, relevant contacts available. Use of specialist benefits software or outsourcing.

1b (3) Carry out reviews of savings and investment portfolios at least once a year. Seek expert and independent advice when necessary.

Record of letters to and from investment advisers and date of last review.

1b (4) Consider appropriateness of security bond level and indemnity insurance minimum once a year.

Evidence of compliance with court order.

1b (5) Demonstrate responsible use of assets, rather than asset preservation.

Records and evidence of decision making.

1c: The client's property (if they don't live there) – when you receive a deputyship court order

Standards

1c (1) Determine the ownership entry recorded at HM Land Registry, for example, sole ownership, joint tenants, or tenants in common.

1c (2) Where there is no other living owner able to do so, gain access to the property and carry out a visit to ensure it is secure.

1c (3) Complete an inventory of contents. Consider what the property and its contents say about the client. This includes likes, dislikes, interests and family photos.

1c (4) Consider whether it is appropriate for items of sentimental value to be provided for the client where they now reside. For example, clothes, sentimental items, DVDs, CDs.

1c (5) Ensure appropriate buildings and contents insurance are in place and familiarise yourself with the terms of the policy.

1c (6) Get post redirected and maintain ongoing provision of utilities, if applicable.

1c (7) If the property is owned by the client, liaise with the client, any joint owners and/or the client's family, where appropriate, to decide the best course of action. Act accordingly – for example sell, let or maintain.

Sources of evidence

Records or letters from HM Land Registry showing property details.

Record to show when this was carried out, who carried it out, and who was consulted before entry (for example, the client).
Receipts for any costs incurred.

Inventory of property contents and value.
Audit trail of items removed from the property and their location. If items are auctioned or sold, clear records of their disposal.

Record of best interest decisions made and family members or people consulted. Audit trail of items removed from the property and their location.

Record of valid insurance such as the insurance policy or insurance certificate.
Inventory of property contents and value.

Record of letters to and from Royal Mail and utility companies.

Record of best interest decisions made and family members/people consulted.
Evidence that you are following the court order.

Standards

1c (8) If the client is in public authority funded care, give consideration to a deferred payment arrangement.

Sources of evidence

Record of best interest decision.

1c (9) If the client's property is let, ensure that notice is given to terminate the tenancy, where appropriate, and in good time.

Record of best interest decisions made and letters to and from the tenant.

1c (10) Consider pre-existing arrangements of any family residing in the client's property and whether it may be appropriate for regular payments to be made to or from the client.

Record of best interest decisions made and family members/people consulted.
Record of letters to and from the tenant.
Evidence of pre-existing agreements with the client and tenants.

1d: The client's property (if they don't live there) – ongoing

1d (1) Ensure that the property is secured and maintained appropriately.

Record of letters and expenditure.
Record of regular property inspection visits.

1d (2) If let, ensure the correct legal tenancy agreement(s) are in place and maintained. Consider seeking specialist property law advice if required.

Copy of tenancy agreement.

1d (3) If let, take reasonable steps to ensure that tenants maintain the property in good order and take appropriate action if they are in breach of the tenancy agreement.

Record of visits to the property and any discussions held with the tenants in line with the tenancy agreements.

1d (4) Undertake regular reviews of the client's needs and undertake an evaluation of the decision to let or sell as appropriate.

Record of property reviews and best interest decisions made. Valuation quotes from estate agents.

1d (5) If selling the property, prepare the property for sale, engaging an agent and obtaining a minimum of three separate valuations.

Record of decision on asking price.
Record of offers considered.

Standards

Sources of evidence

1d (6) Ensure appropriate buildings and contents insurance are in place and familiarise yourself with the terms of the policy.

Record of valid insurance such as the insurance policy or insurance certificate.
Inventory of property contents and value.

1d (7) If let, ensure gas check certificates are obtained for gas fires, boilers and appliances.

Record of relevant certificates.

1e: The client's property (if they live there) – when you receive the deputyship order

1e (1) Review the client's needs and the suitability of the property.

Visitor's report. Evidence of people consulted and action(s) taken where improvements have been identified.

1e (2) Review any tenancy or mortgage agreements, securing any deeds of ownership.

Copies of any tenancy or mortgage agreements.

1e (3) Ensure appropriate buildings and contents insurance are in place and familiarise yourself with the terms of the policy.

Record of valid insurance such as the insurance policy or insurance certificate.

1e (4) Ensure gas check certificates are obtained for gas fires, boilers and appliances.

Record of relevant certificates.

1e (5) Review or commission a care plan or occupational therapy report and commission any aids/adaptations necessary to ensure that the client's needs are met.

Record of best interest decisions made and family members/people consulted. Care plan, occupational therapist's report.

1e (6) If the client is responsible for household bills, agree any contributions to be made from, or to, other household members where necessary.

Records detailing client's contribution, utility bills, record of best interest decisions made and people consulted.

1f: The client's property (if they live there) – ongoing

Standards

Sources of evidence

1f (1) Regularly review the condition of the property and ensure it is adequately maintained.

Record of visit and survey of property.

1f (2) Regularly review the suitability of the property for the client and commission updated care plans.

Record of people consulted and best interest decisions made.

1f (3) Regularly review arrangements with other occupiers.

Record of people consulted and best interest decisions made.

1g: Care arrangements – when you receive the deputyship court order

1g (1) Contact the care providers, tell them of your appointment as deputy and provide your contact details.

Record of contact to and from care providers.

1g (2) Ensure any level of care (including any supplementary therapies or treatments) is relevant to the client, good value for money and appropriate to the level of funds available.

Record of best interest decisions made and people consulted. Care plans and record of regular reviews.

1g (3) Arrange for the client to receive a personal allowance, relevant to their needs.

Record of personal allowance being paid, for example, a bank statement or ledger.

1h: Care arrangements – ongoing

1h (1) Arrange for the client to receive a personal allowance, relevant to their needs.

Record of care reviews, any recommendations made and changes to be implemented.

Standard 2: Gain insight into the client to make decisions in their best interests

Standards

2 (1) Ensure capacity assessments in respect of specific decisions have been carried out when receiving the case and as future decisions are required.

2 (2) Maintain records of decisions made, including gifting, who was consulted and the reasons for any decisions.

2 (3) Discuss and record the client's feelings, wishes, beliefs and interests, both past and present, with the client, their family and care providers.

2 (4) As appropriate, discuss any decisions to be taken with the client's family and care providers according to the client's wishes.

2 (5) Maintain regular contact with the client/carers/family members and conduct visits to the client at least once a year.

2 (6) Carry out regular reviews of the client's needs, expenditure and their capacity to handle money. For example do they receive benefits or a weekly cash allowance?

Sources of evidence

Copies of capacity assessments. Record of ongoing reviews.

Decision checklist. Record of family members/people consulted and best interest decisions made.

Records including correspondence, phone calls, minutes and case notes.

Records including correspondence, phone calls, minutes and case notes.

Record of contact/visits, any recommendations and follow up action taken.

Record of capacity assessments, best interests decision making.

Standards

2 (7) Actively demonstrate protection of the client from exploitation of financial abuse (for example, through registration with credit protection agency).

2 (8) Use appropriate ways to communicate with the client, for example, in his or her preferred language.

Sources of evidence

Record of correspondence with financial institutions.

Record of services used to improve communication with client and any associated invoices.

Standard 3: Maintain effective internal office processes and organisation

3a: Governance

Standards

3a (1) Establish clear and effective governance between the named deputy and staff delegated to carry out the day-to-day functions of the role.

Sources of evidence

Clear and organised files, attendance notes. Clearly defined roles and processes in place so staff know who to report to and when. Compliance controls in place.

3a (2) Maintain a clear record of all staff delegated the authority to carry out tasks by the deputy, including a list of signatories.

Record of all staff members.

3a (3) Demonstrate sufficient senior internal supervision of the overall deputyship process.

Documented policies and procedures, clear team structures in place.

3a (4) Where a level of decision making is delegated, ensure the criteria for decision making requiring the sanction of the deputy are clearly defined and understood.

Compliance controls and an audit trail.

3a (5) Ensure that all necessary financial, security, management, organisational and quality control systems are in place with regard to:

- accounting systems
- controls over cash handling, banking and access to bank accounts
- separation of clients' funds
- IT security and information assurance

Records on staff with access to sensitive client information, including employment contract, checks for previous convictions for fraud, criminal record checks. Record of enhanced checks for those who have direct contact with the client. Record of induction training, ongoing training and Continuing Professional Development. Record of written policies. Bills or invoices with

Standards

Sources of evidence

3a(5) continued

- separation of clients' funds
- IT security and information assurance

appropriate narrative/itemisation to account to the client, where appropriate, regarding their finances and your charges.

3a (6) Maintain clear polices on:

- data protection
- business continuity
- banking and money handling.

Internal policies, procedures and training records specific to work under a Court of Protection deputyship order.

3a (7) Maintain confidentiality on individual client matters.

Records on staff with access to sensitive client information, including employment contract, checks for previous convictions for fraud, criminal record checks. Record of enhanced checks for those who have direct contact with the client. Record of induction training, ongoing training and Continuing Professional Development. Clear information assurance policies and procedures in place. Secure filing/electronic case records.

3a (8) Keep client records up to date by regularly reviewing and recording the client's capacity, capability and support they need.

Record of client profiles. Clear safeguarding systems in place, audit trail.

3a (9) Maintain a clear and transparent fee levying policy which operates in the most cost-effective manner for the client.

Annual plans, projected costs and annual reports.

3a (10) Carry out regular billing of deputy's costs in line with the fixed costs practice direction.

Financial records and deputy report.

3a (11) Review the ratio of staff to cases.

Show ongoing review of the ratio of staff to cases to ensure deputy's obligations are met.

3b: Office culture and customer service

Standards

Sources of evidence

3b (1) Ensure that opportunities exist for members of staff to hold case discussions with peers or senior supervisor/manager.

Record of best interest decisions, who's been consulted, minutes, case notes.

3b (2) Ensure there is adequate cover during holiday/absence periods.

Records on office whereabouts, appropriate planning for staff absences and business continuity plans.

3b (3) Ensure access to the services of translators and interpreters, where necessary.

Record of relevant contact details, information packs.

3b (4) Have access to specialist advice, for example, a financial accountant, either internally or externally.

Record of advice sought/provided and by whom.

3b (5) Ensure that all parties have access to a copy of the documented complaints handling procedure and the options for resolving disputes.

Record of relevant contact details, information packs.

3b (6) Ensure that all decisions taken are free from any conflict of interest, be it personal or organisational.

Record of conflict of interest and decision making and any declarations.

3b (7) Ensure that the deputy's or case supervisor's contact details are provided to all relevant parties.

Record of general correspondence.

3c: Safeguarding

3c (1) Ensure all staff are aware of procedures to follow in handling safeguarding issues. The deputy should know how to make a referral to the relevant authority.

Record of referrals made. Record of training attended. Office policy documents.

OPG deputy standards – professional

Standards

3c (2) – This standard only applies to OPG Panel appointed deputies – Adhere to the OPG Panel Deputy Service Level Agreement.

Sources of evidence

Record of letters, documents, telephone logs.

Standard 4: Have the skills and knowledge to carry out the duties of a deputy

Standards

4 (1) Ensure the deputy and all members of staff delegated with deputyship responsibilities understand the Mental Capacity Act (MCA) and its Code of Practice.

Sources of evidence

Record of training attended, Continuing Professional Development points, reference material used. Affiliation to relevant organisations such as Solicitors for the Elderly (SFE), the Society of Trust and Estate Practitioners (STEP), Disability Discrimination Act (DAA). Client records that demonstrate systematic application of the principles of the MCA.

4 (2) Ensure the deputy and all members of staff delegated with deputyship responsibilities understand how the five statutory principles of the MCA are applied within their working practices.

Case specific example of how each of the five statutory principles have been applied.

4 (3) Ensure the deputy and all members of staff delegated with deputyship responsibilities understand Court of Protection practice and procedures.

Record of training plans, skills matrix for all staff members.

4 (4) Ensure the deputy and all members of staff delegated with deputyship responsibilities know about the role of the Public Guardian and his role in supervising deputies.

Record of training plans, skills matrix for all staff members. OPG records.

Standards

4 (5) Ensure the deputy and all members of staff delegated with deputyship responsibilities know how to get appropriate advice and expertise on Social Security benefits, including eligibility criteria.

Sources of evidence

Record of relevant contact details, information packs. Record of advice sought/provided.

4 (6) Ensure the deputy and all members of staff delegated with deputyship responsibilities know how to access appropriate advice and expertise on NHS Free Nursing Care and Continuing Health Care funding or funding under section 117 of the Mental Health Act 1983.

Record of relevant contact details, information packs. Record of advice sought/provided.

4 (7) Ensure the deputy and all members of staff delegated with deputyship responsibilities know about public authority funding and charges for care, and how to access appropriate advice and expertise.

Record of relevant contact details, information packs. Record of training plans, skills matrix for staff members.

4 (8) Ensure the deputy and all members of staff delegated with deputyship responsibilities know about promoting the ongoing allocation of a care professional when the client doesn't have any family, carer or friend who could speak on their behalf.

File records, record of relevant contact details.

4 (9) Ensure the deputy and all members of staff delegated with deputyship responsibilities have access to appropriate advice and expertise on investments, savings and property.

Record of relevant contact details, information packs. Record of advice sought/provided.

4 (10) Ensure the deputy and all members of staff delegated with deputyship responsibilities have access to appropriate advice and expertise on inheritance tax planning and trusts, including how to apply for a statutory will.

Record of relevant contact details, information packs. Record of advice sought/provided.

Standards

4 (11) Ensure the deputy and all members of staff delegated with deputyship responsibilities have access to appropriate advice and expertise on personal tax returns.

4 (12) Ensure the deputy and all members of staff delegated with deputyship responsibilities have awareness or experience in managing family conflict/mediation.

Sources of evidence

Record of relevant contact details, information packs. Record of advice sought/provided.

Access to mediation services.

Standard 5: Health and Welfare Standards

(for deputies who hold a personal welfare court order only, and deputies who hold both a personal welfare court order and a property and affairs court order)

Standards

5 (1) Adhere to the personal welfare court order and its limitations under the Mental Capacity Act – for example, when deciding where the client should live. If self funding the deputy can choose any accommodation they wish as long as it meets the client’s needs. If the client is not self funding, the deputy must work alongside the funding provider and come to a mutual agreement in the best interests of the client.

5 (2) If carers are employed, ensure appropriate Disclosure Barring Service (DBS) checks are in place and that the number of carers meets the client’s needs.

5 (3) If a Deprivation of Liberty (DoL) order exists for the client, the deputy must ensure it is relevant and current.

5 (4) Carry out a health review/ assessment at least once a year to ensure the clients needs have not changed and are still being met.

Sources of evidence

Records, letters and appointments attended with care providers, Social Services, the public authority, family and friends. Record of best interest decisions made and people consulted, care plans and regular reviews.

Record of DBS checks carried out on staff working with client seen by the deputy. Record of best interest decisions made and people consulted, care plans and regular reviews.

Records to show that discussion has taken place with the person responsible for applying to put the DoL in place – for example, the care home manager.

Records, letters and/or appointments to show that the health review/assessment has taken place.

Standards

5 (5) Deputies should be aware of the Care Act, where wellbeing is paramount, and act accordingly.

5 (6) Notify all involved in the client's network, such as clinicians, care provider and other professionals, and send copies of the court order.

Sources of evidence

Awareness of the new Act and accessing it via www.gov.uk for further clarification or information.

Records, letters and appointments attended with financial institutions and advisers.