

CYFARFOD PENDERFYNIADAU'R AELOD O'R BWRDD GWEITHREDOL DROS YR GOFAL CYMDEITHASOL AC IECHYD

19 GORFFENNAF, 2018

Yr Aelod o'r Bwrdd Gweithredol:	Portffolio:
Y Cynghorydd J. Tremlett	Gofal Cymdeithasol ac Iechyd

RHYDDHAU ARIAN Y DEFNYDDWYR GWASANAETH HEB YR ANGEN AM GRANT PROFiant

Y Pwrpas:

Cynyddu'r terfyn ar gyfer rhyddhau symiau i aelodau'r teulu heb yr angen am Grant Profiant o £5,000 i £20,000.

Yr argymhellion / penderfyniadau allweddol sydd eu hangen:

Argymhellir cynyddu'r trothwy o £5,000 i £20,000 heb yr angen am Grant Profiant.

Y rhesymau:

Cafodd y trothwyon yn y statud eu cynyddu ddiwethaf yn 1984 (gan Orchymyn Gweinyddiad Ystadau (Mân Daliadau) (Cynyddu'r Terfyn) 1984), a byddai cynnydd nawr yn adlewyrchu chwyddiant a'r lefelau presennol a bennwyd gan sefydliadau ariannol.

Y Gyfarwyddiaeth Cymunedau Enw Pennaeth y Gwasanaeth: Lyn Walters Awdur yr Adroddiad: Rhys Page	Swydd Uwch-reolwr Cymorth Busnes Rheolwr Cymorth Busnes	Rhif Ffôn 01267 228768 01267 228729 Cyfeiriad e-bost: dlwalters@sirgar.gov.uk rjpage@sirgar.gov.uk
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Declaration of Personal Interest (if any):

None

Dispensation Granted to Make Decision (if any):

N/A

DECISION MADE:

Signed:

DATE: _____

EXECUTIVE BOARD MEMBER

The following section will be completed by the Democratic Services Officer in attendance at the meeting

Recommendation of Officer adopted	YES / NO
Recommendation of the Officer was adopted subject to the amendment(s) and reason(s) specified:	
Reason(s) why the Officer's recommendation was not adopted:	

EXECUTIVE SUMMARY

EXECUTIVE BOARD MEMBER DECISION MEETING FOR SOCIAL CARE & HEALTH

19TH JULY, 2018

RELEASING SERVICE USERS FUNDS WITHOUT THE NEED FOR GRANT OF PROBATE

The Issue

When an individual who has been resident in a care home passes away, there are occasions when the Authority holds money in safekeeping, for example when there has been an accumulation of minimum income amount (a payment made to residents under the Social Services and Well-Being Wales Act 2014 for personal items) or where the Authority has acted as appointee with the Department for Work and Pensions and there has been accumulation of benefits.¹

Although the Administration of Estates (Small Payments) Act 1965 and subsequent Administration of Estates (Small Payments) (Increase of Limit) Order 1984 do not apply in such a situation, it is believed that the current sum of £5000 derives from this legislation; this is the amount that the Local Authority has historically agreed to release to families without insisting upon probate, with the proviso that they sign an indemnity form so that the Authority has protection from liability should any entitled beneficiaries come forward subsequently.

In the majority of cases, the sums held will be less than £5000 and there is no issue.

However, in recent years there have been increasing numbers of larger sums of money held by the Authority, most likely when the Authority is appointee. The Business Support Unit has been under increasing pressure from families to release those sums without the requirement for probate.

The stance taken by other organisations

Upon carrying out research into how financial institutions deal with monies held in the accounts of deceased clients, it appears that most exercise discretion when deciding their threshold, with the majority of organisations having a limit of around £50,000.

¹ This is not an exhaustive list

However, banks and building societies are necessarily less risk averse than local authorities given the types of services they provide compared to the services that local authorities have a duty to provide together with the obligation on local authorities to protect the public purse.

The balance sheet

Pros of increasing limit	Cons of increasing limit
Reduced pressure on the BSU	Should funds be wrongly shared the quantum of risk will be higher
Reduced cost for families	
Reduced pressure for bereaved families	
Improved relationships with families	

The indemnity

There has always been a risk when distributing funds over the £5000 small payments limit without the family first obtaining probate. When these payments are made, the Authority has always required the family members concerned to sign a form of indemnity to minimise the financial risk to ourselves (if a more entitled family member should come forward).

Clearly should the threshold be increased in such circumstances, then the quantum of risk will also increase.

The Authority's legal services section has recently reviewed and redrafted the form of indemnity (Annex A) to strengthen the Authority's position should such a claim be made. It should be noted that this form of indemnity is intended to be used for any distribution of funds over the £5000 statutory threshold.

It is not suggested that we use our discretion to reflect the thresholds applied by the financial institutions in the region of £50,000. However, given that the thresholds within the statute were last increased in 1984 (by the Administration of Estates (Small Payments) (Increase of Limit) Order 1984), an increase now would be reflective of inflation.

It is therefore recommended that a threshold of £20,000 would be reasonable given that many other organisations are on average £30,000 and some up to £50,000.

DETAILED REPORT ATTACHED?

Yes – Appendix A – Form of Indemnity

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: Lyn Walters

Senior Business Support Manager

Policy and Crime & Disorder	Legal	Finance	ICT	Risk Management Issues	Organisational Development	Physical Assets
NONE	YES	YES	NONE	YES	NONE	NONE

2. Legal

The Authority's legal services section has recently reviewed and redrafted the form of indemnity (Annex A) to strengthen the Authority's position should such a claim be made. It should be noted that this form of indemnity is intended to be used for any distribution of funds over the £5000 statutory threshold.

3.Finance

The implications on the Authority will be that we will no longer be holding individual's money while we await probate. There is a risk when releasing amounts held that the money is released to the wrong beneficiary, but there are established processes to minimise the authority against this risk.

5. Risk Management Issues

The risk when releasing money is that money is released to the wrong beneficiary, but checks are established to minimise the authority against this risk. The process of checks will not change, and we retain the ability to invoke the probate process for any amount held.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Lyn Walters

Senior Business Support Manager

1. Scrutiny Committee – N/A

2.Local Member(s) - N/A

3.Community / Town Council – N/A

4.Relevant Partners - N/A

5.Staff Side Representatives and other Organisations - N/A

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THERE ARE NONE