

# Document Pack



Mark James LLM, DPA, DCA  
Prif Weithredwr,  
Chief Executive,  
Neuadd y Sir, Caerfyrddin. SA31 1JP  
County Hall, Carmarthen. SA31 1JP

THURSDAY, 12 JULY 2018

## TO: THE EXECUTIVE BOARD MEMBER FOR SOCIAL CARE & HEALTH

I HEREBY SUMMON YOU TO ATTEND A MEETING OF THE  
**EXECUTIVE BOARD MEMBER DECISIONS MEETING FOR  
SOCIAL CARE & HEALTH** WHICH WILL BE HELD IN  
**EXECUTIVE BOARD MEMBER'S OFFICE, COUNTY HALL,  
CARMARTHEN, AT 10.00 AM, ON THURSDAY, 19<sup>TH</sup> JULY, 2018**  
FOR THE TRANSACTION OF THE BUSINESS OUTLINED ON  
THE ATTACHED AGENDA.

*Mark James* CBE

CHIEF EXECUTIVE



PLEASE RECYCLE

Democratic Officer:	Janine Owen
Telephone (direct line):	01267 224030
E-Mail:	JanineOwen@carmarthenshire.gov.uk
Ref:	AD016-001



EICH CYNGOR **arleinamdani**  
[www.sirgar.llyw.cymru](http://www.sirgar.llyw.cymru)  
**YOUR COUNCIL doitonline**  
[www.carmarthenshire.gov.wales](http://www.carmarthenshire.gov.wales)

# AGENDA

1. DECLARATIONS OF PERSONAL INTEREST
2. DECISION RECORD - 26<sup>TH</sup> APRIL, 2018 3 - 4
3. RELEASING SERVICE USERS FUNDS WITHOUT THE NEED FOR GRANT OF PROBATE 5 - 12

*Note:- The press and public are not be entitled to attend the meeting. The decision record will be published normally within 3 working days.*

**EXECUTIVE BOARD MEMBER DECISIONS MEETING FOR  
SOCIAL CARE & HEALTH**

**THURSDAY, 26 April 2018**

**PRESENT:** Councillor J. Tremlett (Executive Board Member).

**The following officers were in attendance:**

R. Page, Area Business Support Manager  
A. Thomas, Group Accountant  
M.S. Davies, Democratic Services Officer

**Regeneration Meeting Room, County Hall, Carmarthen 9.00 am - 9.15 am**

**1. DECLARATIONS OF PERSONAL INTEREST**

There were no declarations of personal interest.

**2. DECISION RECORD - 19TH MARCH, 2018**

**RESOLVED** that the decisions record of the meeting held on the 19<sup>th</sup> March 2018 be signed as a correct record.

**3. LOCAL AUTHORITY RESIDENTIAL CARE STANDARD CHARGE FOR 2018-2019**

The Executive Board Member considered a report on Local Authority residential care standard charge for 2018/19. The Group Accountant advised that Adults in residential accommodation were required to contribute to the cost of their care. Where they had sufficient resources they were required to pay the full cost of their accommodation, known as the Standard Charge which was calculated annually based on the full cost to the authority of providing the accommodation. It was outlined that the overall budgeted costs for running the Authority's residential homes together with the number of beds available and the occupancy levels were the determining factors in calculating the annual Standard Charge. For 2018/19 there had been no change in the number of Local Authority beds. Whilst staffing costs had increased these had been partly offset by a reduction in running expenses. As a result the charge for mainstream beds would increase by 0.17% and EMI beds by 1.11%.

**RESOLVED:**

- 3.1 that the standard charge for Local Authority older people residential care homes be increased from £585.99 to £587.02 for mainstream beds and from £791.48 to £800.30 for EMI beds;**
- 3.2 that for residents placed by this authority into our own Local Authority Homes the effective date for the new rates is 2<sup>nd</sup> July 2018. For those residents placed in our homes by other Local Authorities the effective date for the new charges to those authorities is 9<sup>th</sup> April 2018.**

\_\_\_\_\_  
**EXECUTIVE BOARD MEMBER**

\_\_\_\_\_  
**DATE**

This page is intentionally left blank

## EXECUTIVE BOARD MEMBER DECISIONS MEETING FOR SOCIAL CARE AND HEALTH

19<sup>TH</sup> JULY, 2018

<b>Executive Board Member:</b>	<b>Portfolio:</b>
<b>Cllr. J. Tremlett</b>	<b>Social Care &amp; Health</b>

### RELEASING SERVICE USERS FUNDS WITHOUT THE NEED FOR GRANT OF PROBATE

**Purpose:**

To Increase the limit for release of sums to family members without the need for Grant of Probate from £5,000 to £20,000.

**Recommendations / key decisions required:**

It is recommended to increase the threshold from £5,000 to £20,000 without the need for Grant of Probate.

**Reasons:**

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 and current levels set by financial institutions.

Directorate Communities Name of Head of Service: Lyn Walters Report Author: Rhys Page	Designation Senior Business Support Manager  Business Support Manager	Tel No. 01267 228768 01267 228729 E Mail Address: <a href="mailto:dlwalters@carmarthenshire.gov.uk">dlwalters@carmarthenshire.gov.uk</a> <a href="mailto:rjpage@carmarthenshire.gov.uk">rjpage@carmarthenshire.gov.uk</a>
--	---	--

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

# EXECUTIVE SUMMARY

## EXECUTIVE BOARD MEMBER DECISION MEETING FOR SOCIAL CARE & HEALTH

19<sup>TH</sup> 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.<sup>1</sup>

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.

---

<sup>1</sup> 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**

<b>Pros of increasing limit</b>	<b>Cons of increasing limit</b>
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
<b>NONE</b>	<b>YES</b>	<b>YES</b>	<b>NONE</b>	<b>YES</b>	<b>NONE</b>	<b>NONE</b>

## 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**

This page is intentionally left blank

**Carmarthenshire County Council**  
**For the Attention of :**

## **FORM OF INDEMNITY**

**MADE BY:** Family Members / Heirs and/or their legally appointed Power of Attorney / Legal Representative (the "Undersigned")

**IN RESPECT OF:**

ASSETS HELD BY CARMARTHENSHIRE COUNTY COUNCIL TO THE CREDIT OF:

(The Estate of) \_\_\_\_\_ (Deceased)

Formerly, of: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Deceased on: \_\_\_\_\_ 2018

At: \_\_\_\_\_, domiciled in England and Wales.  
(the "Deceased"),

**BY:** Carmarthenshire County Council as the Authority with whom monies and/or items and/or to the value of: £ \_\_\_\_\_ were lodged for safe keeping. These monies and/or items and/or constitute all sums in relation to the Deceased held by Carmarthenshire County Council.

I confirm that there is no Will and no Letters of Administration are being applied for and confirm that all other relatives of equal blood relationship to me or nearer have been contacted and are agreeable to my receipt of these monies and/or items and/or.

**I / We** the Undersigned, Family Member of the Deceased / Donee of Power of Attorney / Executor / duly authorised Legal Representative does sign to confirm that I have a lawful claim to the Monies and/or items and/or held by Carmarthenshire County Council and represent and warrant to be such.

The Undersigned hereby covenants and agrees that those to whom the monies and/or items and/or have been given by Carmarthenshire County Council will, from time to time and at all times hereafter, indemnify and keep indemnified Carmarthenshire County Council of, and from and against all actions, applications, claims, costs (including any legal costs) and demands which are now or may at any time or times hereafter be made, brought or claimed against Carmarthenshire County Council in respect of payment by Carmarthenshire County Council to the Undersigned of the monies and/or items and/or held by Carmarthenshire County Council and of and from any loss, charges and expenses which Carmarthenshire County Council may sustain or be put to in respect thereof.

**THIS FORM OF INDEMNITY** shall be binding on the Undersigned. This Form of Indemnity shall be unlimited as to amount or duration.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
(Signature of Undersigned)

If Duly Authorised Representative - On behalf of:

\_\_\_\_\_  
\_\_\_\_\_

**WITNESSED BY:**

\_\_\_\_\_

Name of Witness (please print)

\_\_\_\_\_

Address of Witness (please print)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_