

**SURREY COUNTY COUNCIL****CABINET MEMBER FOR BUSINESS SERVICES AND  
RESIDENT EXPERIENCE****DATE: 14 MARCH 2016****LEAD OFFICER: ANN CHARLTON, DIRECTOR OF LEGAL, DEMOCRATIC AND  
CULTURAL SERVICES****SUBJECT: ADMINISTRATION OF THE ESTATES OF DECEASED WITH  
DEBT****SUMMARY OF ISSUE:**

This report requests the Cabinet Member for Business Services and Resident Experience appoint the Director of Legal, Democratic and Cultural Services to apply as nominee in applications to administer the estate of Violet Frances Dewsnap. It further requests that the Cabinet Member authorise the Director of Legal, Democratic and Cultural Services to seal copies of each of the nominations made for the purposes of the application. This will enable the Council to apply to administer the estate of the deceased debtor and recover debts more effectively

**RECOMMENDATIONS:**

It is recommended that the Cabinet Member for Business Services and Resident Experience:

- i. appoint the Director of Legal, Democratic and Cultural Services to apply as nominee in applications to administer the estate of Violet Frances Dewsnap.
- ii. authorise the Director of Legal, Democratic and Cultural Services to seal copies of each of the nominations made for the purposes of the application.

**REASON FOR RECOMMENDATIONS:**

Administering the estate of the late Violet Dewsnap will enable the Council to recover money owed to the Council which may be used for the benefit of Surrey Residents.

**DETAILS:**

Name: Violet Frances Dewsnap

Date of Birth: 1 October 1923

Date of Death: 14 February 2014

Place of Death: Royal Surrey County Hospital, Guildford, Surrey

Social Care Debt: £36,333.59

Assets: £39,518.95

**HOW HAS DEBT ARISEN:**

1. At all material times Surrey County Council (SCC) was the Local Authority under a duty pursuant to section 21 (1)(a) of the National Assistance Act 1948

(as amended) to make arrangements for providing residential accommodation for the deceased as she was a person over the age of 18 who by reason of age, illness, disability or other circumstances in need of care and attention which was not otherwise available to her.

2. At all material times the deceased was a person in respect of whom the Council made arrangements for providing residential accommodation for one of the reasons set out in the above paragraph.
3. Pursuant to section 22 (1) National Assistance Act 1948 (as amended) SCC was under an obligation to recover from the service user / her estate the amount of the payment that she was liable to make in accordance with the relevant legislation.

<b>MATERIAL FACTS:</b>
------------------------

4. The deceased was admitted to hospital on three separate occasions between June and September 2012. She was admitted to permanent care in Longfield, Care Home, Cranleigh after failed discharges from hospital. At the time of her admission, Ms Dewsnap was deemed to have mental capacity and gave the Council permission to enter her home to collect financial documents in order to complete their assessment.
5. On 5 July 2013, Ms Dewsnap was retrospectively assessed to pay the full cost of her care as her capital exceeded the upper capital threshold. However, her condition had worsened at this stage and she was no longer capable of managing her financial affairs.
6. Ms Dewsnap's social care & related matters file was referred to the Deputyship Team on 10 June 2013 in order that the Council may apply to the Court of Protection to formally act as her Deputy. However, the file was not allocated to a caseworker until 11 December 2013. Ms Dewsnap died on 14 February 2014 before a formal application for deputyship could be lodged. No one managed the deceased's financial affairs in the interim.
7. Ms Dewsnap died owing the Council £36,333.59. Following Ms Dewsnap's death, the Council contacted her sister, Ms Tupper, who asked the Council not to contact her in relation to her sister's affairs.
8. Whilst she was resident at the Care Home, nobody assisted Ms Dewsnap with managing her financial affairs, either formally or informally, and, as far as the Council is aware, nobody had access to her bank accounts or savings at the time of her death. It has been confirmed that Ms Dewsnap had investments in the form of an ISA and NS&I shares worth in excess of £20,000.
9. Ms Dewsnap also held an account and bonds with Lloyds Bank worth in the region of £18,000 in 2013. Lloyds Bank have not confirmed the current amounts held in Ms Dewsnap's name, but the accounts remain open and nobody has accessed them following Ms Dewsnap's death. It can therefore be presumed that the funds remain in Ms Dewsnap's account.
10. The deceased's estate is therefore presumed to have assets totalling £39,518.95.

11. At this stage we are not aware of any other creditors. SCC may apply to the Probate section of the Court to administer the estate.
12. The assets are sufficient to pay off the debt in full.
13. Administering the estate and recovering the debt from whatever monies are held in the deceased's estate will settle the debt in full.

#### **RISK MANAGEMENT AND IMPLICATIONS:**

14. Legal Services officers are well aware that administration may take time to complete. It is possible that action by the Council will prompt relatives to administer the estate and clear the debt, or that officers' actions will be resisted.. Legal Services will carefully record the time taken to administer this case and will look to recover all the Council's costs as part of the debt.
15. Enabling lawyers within Legal Services to administer the estate in this way appears to be the only means of recovering money owed to the Council by a person who has died.

#### **Financial and Value for Money Implications**

16. The recovery of debt owed to the Council is important in order to avoid adding to the significant financial pressures the Council is already facing. The action proposed will recover the amount the individual was assessed to contribute towards their care based on the Council's agreed charging policies. It is therefore right and equitable that this debt is recovered. A failure to recover the debt would lead to an additional cost pressure for Adult Social Care.
17. There are costs involved in the debt recovery process. The approximate cost of such administration is as follows:
  - Court fee - £215
  - Advert for next of kin in the London Gazette - £102.11 (incl. VAT)
  - Advert for next of kin in a Surrey local newspaper - £108.11 (incl. VAT)
  - Solicitor's fee for swearing an oath - circa £10 - £15
  - Application for a death affidavit - £7.00

Total of circa **£447.22**

The costs may vary according to the size of the estate and the local newspaper advertising costs.

The above are standard fees payable.

#### **Section 151 Officer Commentary**

18. The Section 151 Officer supports the recommendation to appoint the Director of Legal, Cultural and Democratic services to apply as nominee to administer the estate of Violet Francis Dewsnap. An application to administer the estates of the deceased debtor will more readily enable the Council to recover debts more efficiently.

### **Legal Implications – Monitoring Officer**

19. Please refer to “Risk management and implications”

### **Equalities and Diversity**

20. There are no equalities and diversity implications to consider.

### **WHAT HAPPENS NEXT:**

Should the recommendation be agreed by the Cabinet Member, Legal Services will make an application to the Probate Registry to administer the deceased’s estate.

Once letters of administration have been granted, Legal Services will contact the deceased’s banks and collect the monies currently still held in her accounts. These monies will be used to pay off the deceased’s adult social care debt. Any outstanding amount will be forwarded to the deceased’s next of kin.

---

#### **Contact Officer:**

Agnes Krofah  
Lawyer  
0208 541 9112

#### **Consulted:**

Legal Services officers

#### **Annexes:**

List the annexes attached to this report.

#### **Sources/background papers:**

- All background papers used in the writing of the report should be listed, as required by the Local Government (Access to Information) Act 1985.
-