



## **PUBLIC GUARDIAN ANNUAL REPORT SEPTEMBER 2017**

### **Overview**

1. In September 2016, Governor Lisa Phillips appointed Paul McGinney as the first Public Guardian for St Helena, in accordance with section 124(1) of the St Helena Mental Health and Mental Capacity Ordinance, 2015.
2. It is the Public Guardian's role to protect vulnerable adults on St Helena who lack the mental capacity to make decisions.
3. When individuals still have capacity they can make provision for a time when they may not be able to make decisions for themselves. This can be done through a Lasting Power of Attorney (LPA) which appoints a donee to make decisions on their behalf in respect of personal welfare and/or property and affairs. The Lasting Power of Attorney is only triggered if, at some point after having made it, an individual loses mental capacity.
4. If someone no longer has mental capacity in relation to a particular decision and that person did not make a Lasting Power of Attorney, the Ordinance enables the Supreme Court to appoint a deputy.
5. A deputy may make decisions in relation to a person's property and financial affairs and/or a person's personal welfare. If the deputy is appointed to make decisions about a person's property and financial affairs this could involve managing property, selling property, buying property and (if authorised by the court) conducting legal proceedings on that person's behalf. If the deputy is appointed to make decisions about a person's personal welfare, this could involve deciding where the person lives and consenting to medical treatment on behalf of that person.
6. The work of donees and deputies is kept under review by the Public Guardian whose role includes:
  - Keeping a register of LPAs
  - Keeping a register of court orders appointing deputies
  - Supervising the deputies appointed by the court
  - Receiving security required by the court
  - Receiving reports from donees and deputies
  - Reporting to the court
  - Investigating complaints against donees and deputies, and
  - Submitting a yearly report to the Governor

### **Current Position**

7. With the support of the Attorney General's Chambers and Adult Safeguarding Services the first applications were submitted to the Chief Justice in July 2017 and the first Order was made in the same month.
8. This was the culmination of developing appropriate documentation and systems, identifying vulnerable people and also appropriate applicants all of whom had to pass the required vetting and other checks as per the Ordinance.
9. An initial seven vulnerable adults all residing in SHG residential care were identified by Adult Safeguarding Services as requiring legal protection and advocacy from an appointed deputy. All seven adults lack mental capacity.
10. The Ordinance contains new provisions for the creation of Lasting Power of Attorney which require regulations to implement that part of the Ordinance. These have been drafted and were presented at the Public Health Committee and then will be presented to Executive Council.
11. The applicants are in the main immediate family members; however it was difficult in some cases to identify a suitable deputy or a potential successor.
12. Capacity assessments were completed by a suitable qualified professional and background and employee checks were also undertaken. Discussions were held with family members to ensure the proposed applicant was appropriate.
13. The Public Guardian is working with Adult Safeguarding Services to identify further vulnerable people who would benefit from a deputy as well as new Lasting Powers of Attorney.

### **Challenges**

14. Developing a new system on the Island did have its own challenges, however the major challenge in some cases was being able to identify a suitable deputy/successor. With an ageing population and the likely increase in demand identifying suitable donees/deputies could be problematic in the future.
15. While undertaking the assessments, the Public Guardian raises concerns that due to a lack of previous protection there was a risk that people may have been exploited.
16. While raising these concerns the Public Guardian notes the progress of key services on St Helena and a move to a more person centred approach to care planning and delivery.

### **Future Needs**

17. When considering the future needs of the Island the following does need to be addressed;

- The availability and willingness of appropriate persons to become donees/deputies
- The continued improvement of key services needs to be underpinned to ensure the current profile and resource is at least maintained
- Planning and provision for an ageing population in relation to services and capital investment is imperative

## Conclusion

18. Ensuring that vulnerable people are protected through a legal framework and that they are advocated for by appropriate and appointed persons is a welcome and long overdue development for St Helena.
19. While there have been a number of challenges in developing appropriate systems it is pleasing to note that the first applications for some of the Island's most vulnerable people are now being processed.
20. Key services have improved dramatically and the model now reflects a modern and person centred approach to supporting vulnerable people which was not available previously.
21. With an aged and ageing population it is anticipated that there will be an increased need to protect vulnerable people through appointing donees/deputies.
- 22. To conclude, the first 12 months have been challenging and also successful in that St Helena has an appropriate system in place and vulnerable people are now finally protected. It is anticipated that the next 12 months will see an increase in applications which will see vulnerable people both in the community and in SHG residential accommodation protected when they lack mental capacity.**

**Public Guardian  
September 2017**