

Manchester City Council

Process for setting up and reviewing supported tenancy arrangements

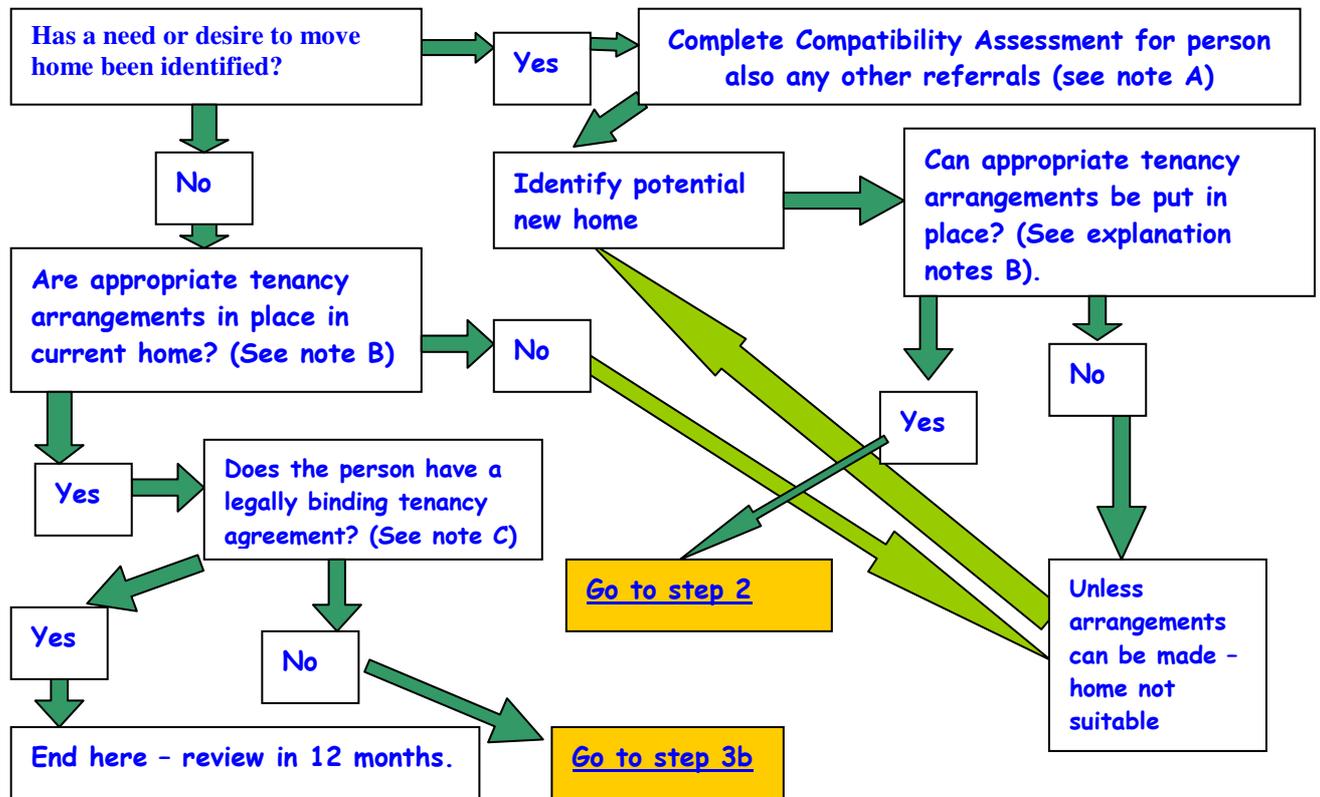
19 December, 2011

Note:

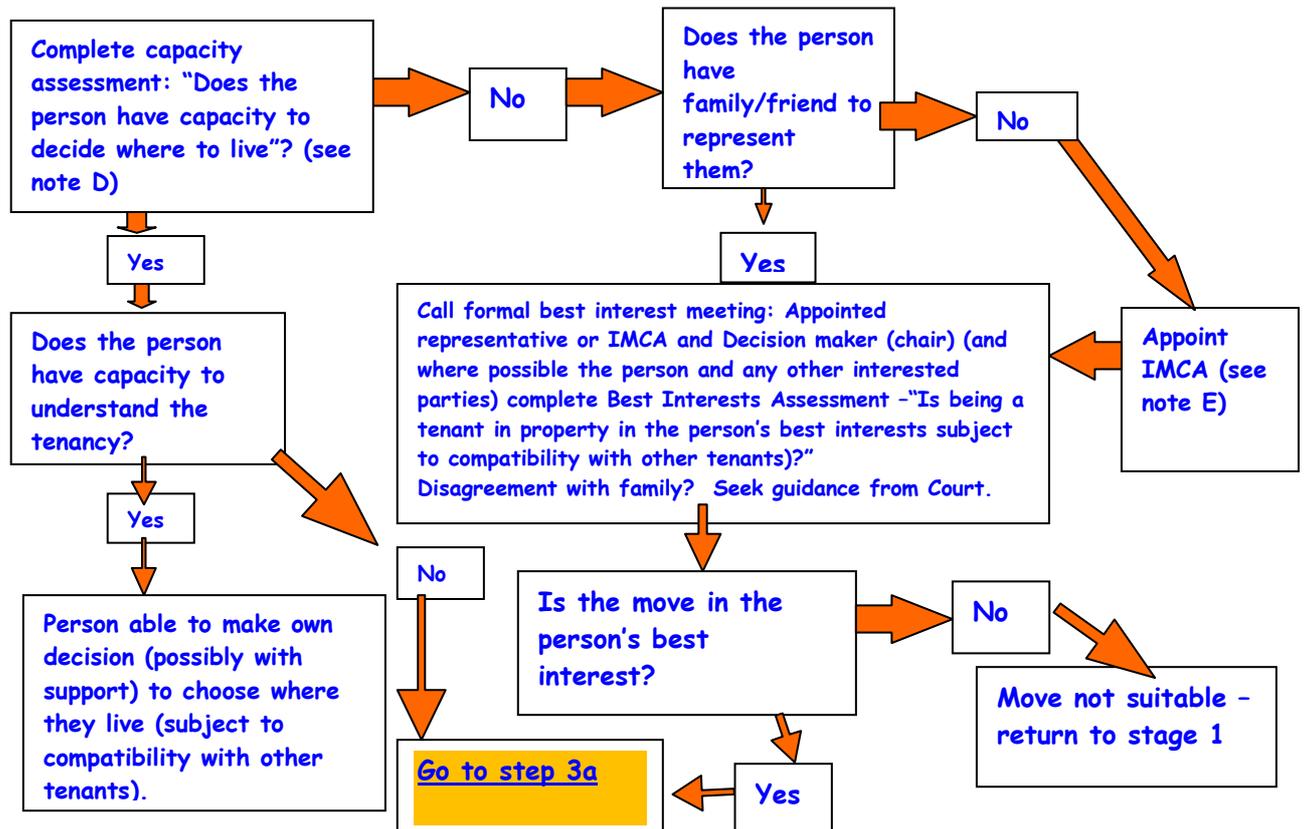
This guidance covers cases where there is no controversy over the person's best interests. Where the person is being removed from their family or their home or if there is a dispute about their Best Interests then you must seek guidance on making an application to Court.

Please note that this guide does not cover every eventuality. If in doubt, particularly if there are restrictions on the person's freedom or a dispute as to the person's best interests then you must seek advice.

Step 1 - Provisional assessment of placement appropriateness

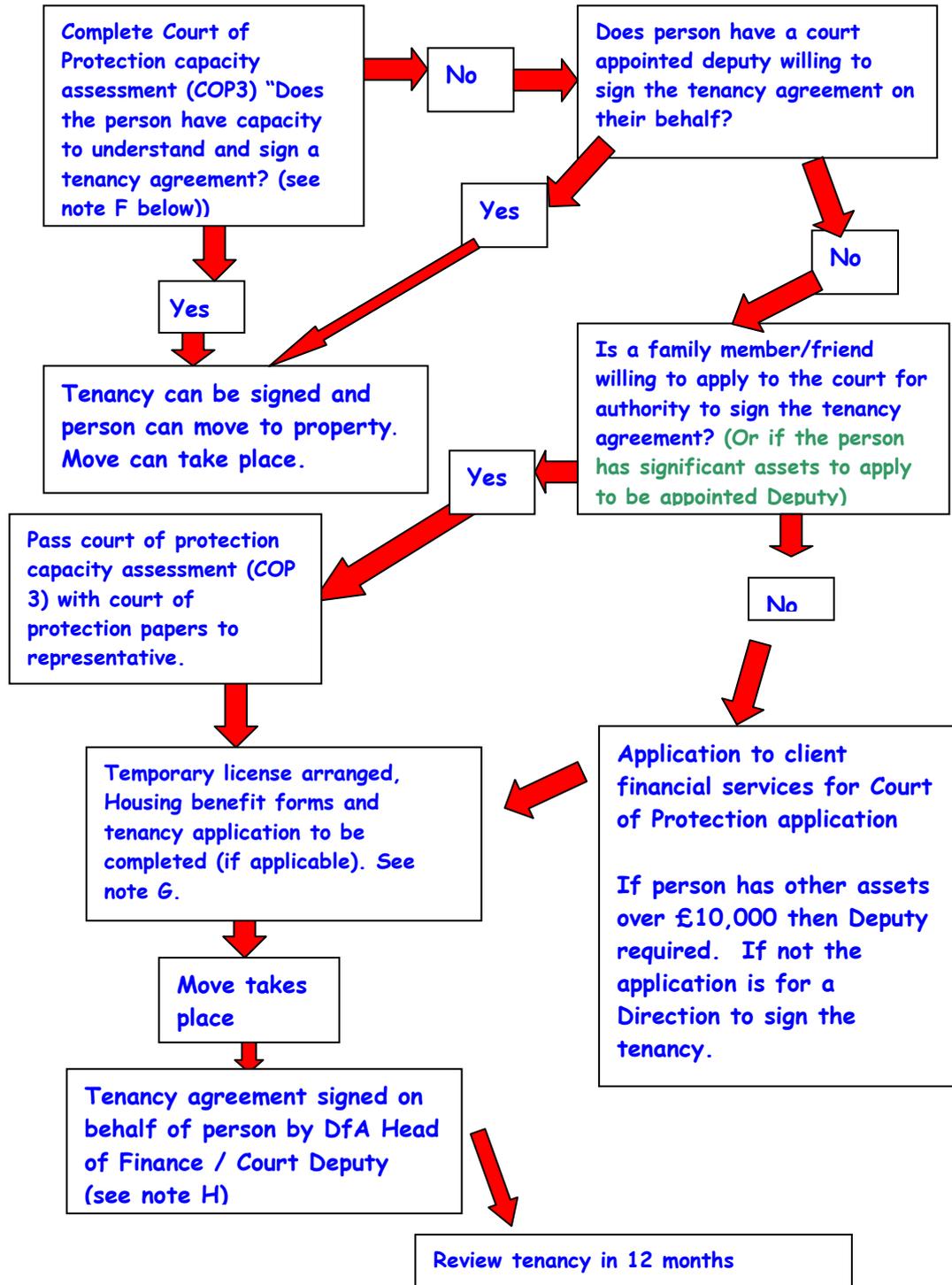


Step 2 - Capacity to decide where to live.



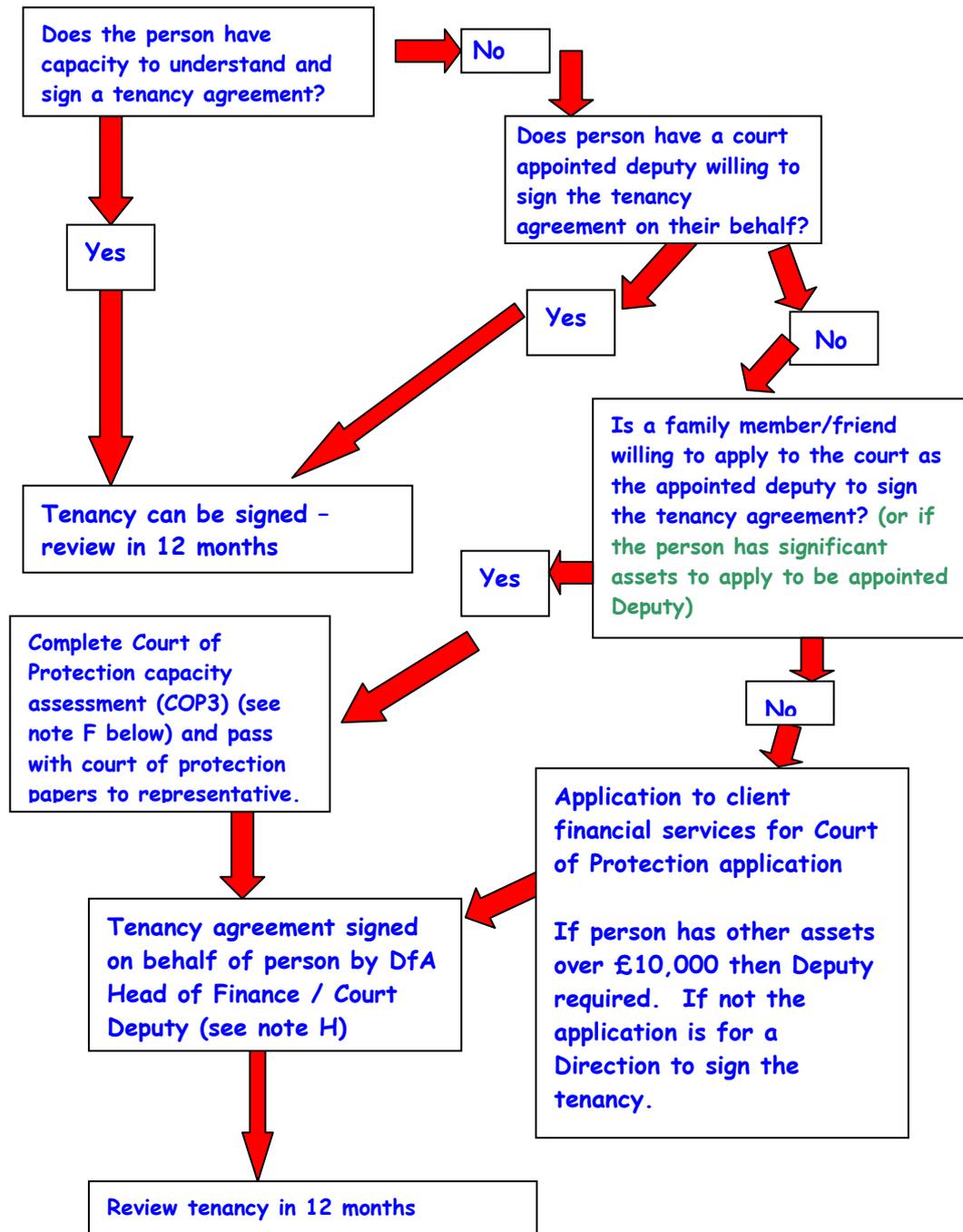
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Step 3A - Arranging a tenancy agreement for person without capacity who is moving home



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Step 3B - Arranging a tenancy agreement for person their current home



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Explanatory notes

Step 1

The process needs to be followed for all people on review and for anyone identified as needing to move or wanting to move.

A) 1) The compatibility assessment An essential part of planning a move is ensuring that accommodation is provided that meets the particular needs and wishes of the individual. These needs and wishes have to be balanced with the needs and wishes of other people in shared housing. The compatibility assessment gains a "snapshot" of the person to inform the assessor whether the person is suitable for the proposed move.

Individuals who have capacity can complete the form themselves or with support. For people lacking capacity information can be sought from family, friends, carers and staff. The form is devised in a tick list format so that patterns and themes can be established easily. The option is given at the end of each "theme" to provide additional information. The assessment can also be completed more than once by asking other people who know the person. If you do not know the answer to one of the questions, just tick the "Don't know" box.

2) Other referrals - as appropriate referrals can be made to Occupational Therapy/Physiotherapy (possibly jointly) to assess the home environment, contribute to best interest meetings and help ensure compatibility in the new home. Also possible referrals to other health professionals as deemed appropriate.

B) Appropriate tenancy arrangements in place. *Read in conjunction with "Guidance to Care Managers on supported living tenancy arrangements - May 2011"*

1) The person will have a right to occupy at least some of the accommodation (at least a bedroom) exclusively.

2) The landlord does not provide services that require him/her to exercise unrestricted access to the accommodation and/or use of the accommodation.

3) There is a tenancy agreement between the landlord and the tenant (or the tenant's legally defined representative (normally a court appointed deputy)

4) There is formal separation between the landlord and the care provider (there two functions are contracted separately).

5) Disabled tenants will have the same general rights as non-disabled tenants would have, for example:

- Their own bedroom and the right to privacy
- Free access to shared areas (Lounge, kitchen, garden etc.)
- The tenants have been given an opportunity to choose where they live and who they live with and allowed to make decisions on new co-tenants.
- Where people do not have capacity for the above decisions, then there views and wishes are taken into consideration and subject to a best interest's determination.

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Note: Where a full tenancy cannot be put in place, either temporarily or due to other constraints there will need to be "*a license to occupy*" granted by the landlord.

C) Legally binding tenancy agreement. This will be a tenancy agreement that either 1) the person had capacity to understand and sign themselves or 2) The Court of Protection has appointed someone (or Client Financial Services) to deputise on behalf of the person to sign the tenancy agreement.

Step 2

D) – Capacity assessment can be completed by Care Manager or Health professional (follow guidance from the Mental Capacity Act 2005).

E) Make referral to RETHINK IMCA service

Step 3

F) 1. Capacity Assessment - Use 'Court of Protection' - COP3 to evidence capacity. The Court of Protection guidance recommends that "the practitioner must be a registered practitioner, psychologist or psychiatrist who has examined and assessed the capacity of the person to whom the application relates. In some circumstances it might be appropriate for a registered therapist, such as a speech therapist or occupational therapist, to complete the form". It is likely to be reasonable that specialist Learning Disability Occupational Therapist and Speech and Language therapists can complete the COP3.

2. Try using easy read tenancy agreement (to be agreed also with landlord) – example in appendix 1 can be used if acknowledgement is given to author(s) – Northwards Housing and MLDP Speech and Language Therapist's to increase opportunity for person to have capacity to understand the agreement.

G) Housing/Council tax forms can be completed on behalf of the person. Please note-there is no reason why housing benefit /council tax cannot be paid whilst waiting for the Court of Protection to appoint a deputy or make an order to sign the tenancy. Housing Benefit will require proof that the person has a licence to occupy the property.

H) Tenancy agreement will be signed once the Court of Protection gives the appropriate authorisation.

I) If going to Court with COP3 form then evidence of the person's assets and income is required. Remission of fees is based on income and information on benefits is evidence of income level.