

**THE STATE HOSPITALS BOARD FOR SCOTLAND**

**ADULTS WITH INCAPACITY POLICY AND PROCEDURES**

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	Lead Nurses	
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	Associate Medical Director	
	Patients Advocacy Service	
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Responsible Officer (SMT)	Director of Nursing and Operations	

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Staff are advised to always check that they are using the correct version of any policy/ procedure/ guidance rather than referring to locally held copies.

The most up to date version of all State Hospital policies/ procedures/ guidance can be found on the intranet: <http://intranet.tsh.scot.nhs.uk/Policies/Policy%20Docs/Forms/Category%20View.aspx>

## 1. PURPOSE

This policy defines the framework in respect of State Hospital (TSH) patients who have impaired capacity in a wide range of property, financial and welfare matters.

The policy provides guidance in the implementation of consistent practice across the Hospital to protect the finances and property of patients in this group. This policy does not cover the role and responsibilities of the State Hospitals Board for Scotland (the Board) acting as a Supervisory Body under the terms of Part 4 of the Adults with Incapacity (Scotland) Act 2000 (the Act).

## 2. LEGISLATIVE FRAMEWORK

The Act legislates for decisions to be made on behalf of adults who lack capacity to do so themselves. Decisions may be about the adult's property or financial affairs or about their personal welfare, including medical treatment.

The following documents can be accessed from the Scottish Government website and explain the duties of the Act in full:

Adults with Incapacity (Scotland) Act 2000  
<http://www.legislation.gov.uk/asp/2000/4/contents>

Adults with Incapacity (Scotland) Act 2000 Code of Practice  
[Adults with incapacity: code of practice for managers of authorised establishments - gov.scot](http://www.gov.scot/Adults-with-incapacity-code-of-practice-for-managers-of-authorized-establishments)

Part 4 of the Act applied is concerned with adults who live in authorised establishments (including all NHS Hospitals) and who lack the capacity to manage their financial affairs. It provides a mechanism for managers of those establishments to manage the finances of these adults on their behalf **up to £10,000** (excluding income derived from Department for Work & Pensions (DWP) benefits) and moveable property value **up to £100**.

Part 4 provisions (Management of Residents' Finances) may apply alongside the Corporate Appointeeship.

Management of Part 4 is intended to be used where other arrangements are not already in place e.g.:

- DWP appointeeship where a patient's DWP benefits are paid direct to a nominee.
- where a financial guardianship order or relevant intervention order is in place.
- where there is a Continuing Power of Attorney with relevant powers.

The meaning of Nearest Relative is defined in S254 of the Mental Health (Care and Treatment) Act 2003. In most situations this will be (in descending order) a spouse, a son or daughter over 18, parent or brother/sister. It should be noted that Schedule 4 of this Act does not give the 'Named Person' powers under the Act.

**Amounts over £10,000 (excluding income derived from DWP benefits) or moveable property greater than £100.**

Written authority is required from the Manager (Lead Nurse / Senior Charge Nurse (SCN) to the Supervisory Body (Chief Executive (CEO) on behalf of the Board) to dispose of moveable property worth more than £100 and manage finances greater than £10,000. Details concerning any request to approve the management of affairs whose value exceeds £10,000 should be compiled by the Manager using the standard letter (Appendix 12) for funds above £10,000 and template for moveable property greater than £100 (Appendix 13)..

An authorisation may be issued by the Supervisory Body to the Manager, setting out the terms of any authorisation that is granted.

In the event that the Supervisory Body considers it inappropriate to authorise management of a higher limit, and where no one else is likely to make an intervention, it may prove necessary for the patient's local authority to seek a Guardianship Order under Part 6 of the Act. This would result in the Manager no longer being authorised to manage that patient's financial affairs as funds will be managed by the relevant body.

The Social Work Department would progress the case discussion / case conference in line with South Lanarkshire Council's Adults with Incapacity Operational Procedures. Anyone requiring a copy of these operational procedures should contact the Social Work Department at TSH.

### **Corporate Appointeeship**

Part 4 of the Act does not apply where a patient's sole source of income is derived from DWP benefits. In this case funds will be managed under Corporate Appointeeship.

The Responsible Medical Officer requires to complete the "Application for Corporate Appointeeship" form (Appendix 2) after making the decision that the patient lacks capacity for managing his own financial affairs.

### **3. DEFINITIONS OF INCAPACITY**

This policy defines incapacity as in the Act, which determines that a problem simply as a result of a deficiency in communication that can be remedied by some type of equipment is **NOT** incapacity.

S.1 (6) of the Act states that 'incapable' means incapable of:

- (a) acting; **or**
- (b) making decisions; **or**
- (c) communicating decisions; **or**
- (d) understanding decisions; **or**
- (e) retaining the memory of decisions

by reason of mental disorder or of inability to communicate because of physical disability. A person shall not be included within this definition by reason only of a lack of deficiency in a faculty of communication if that lack or deficiency can be made good by human or mechanical aid (whether of an interpretative nature or otherwise); and 'incapacity' shall be construed accordingly.

### **Scope for Managers of Authorised Establishments**

For the purpose of this policy, Section 39 of the Act permits managers to manage the matters, on behalf of residents with impaired capacity, as follows:

- claiming, receiving, holding and spending any pension, benefit, allowance or other payment other than under the Social Security Contributions and Benefits Act 1992, State Pensions Credit Act 2002 or Part 1 of Welfare Reform Act 2007.
- claiming, receiving, holding and spending any money to which a resident is entitled (including cash, shares, bank accounts);
- holding any other moveable property (e.g. personal effects and possessions) to which the resident is entitled;
- disposing (e.g. by sale) of the resident's moveable property

### **4. GUIDING PRINCIPLES**

All decisions made on behalf of a patient with impaired capacity must:

- benefit the patient
- take account of the patient's wishes
- take account of the wishes of the patient's nearest relative or primary carer and any guardian or attorney

- restrict the patient's freedom as little as possible while still achieving the desired benefit
- encourage the patient to use existing skills or develop new ones.

## **5. PROCEDURE**

The Flowchart on Appendix 14 outlines the main procedures, however the main policy and procedures should be read in conjunction with the Flowchart to ensure that all scenarios are covered.

### **5.1 Identification of Patient who may have Incapacity**

#### **5.1.1 On Admission**

On admission, the Clinical Team will review the issue of capacity as part of the Admission Care Programme Approach (CPA) Case Conference. If patient considered capable no further action required. If considered incapable, a formal assessment requires to be completed.

#### **5.1.2 CPA Review (6 monthly)**

Ongoing review of capacity to be completed at regular CPA reviews (normally 6 monthly). If, as a result of a CPA review, a patient is considered to lack capacity, the formal assessment process requires to be completed.

#### **5.1.3 Changes to Status**

If the outcome of the CPA review is that the patient is considered capable, a Certificate of Revocation (Appendix 11) requires to be completed by the Responsible RMO and forwarded to the Health Records Department who will copy and send to Patient Funds.

#### **5.1.4 Formal Assessment**

If the Clinical Team is of the opinion that the patient's capacity is in question the RMO will convene a meeting (Appendix 1) to consider the need to apply for authority to manage the patient's funds including:

- RMO
- Social Worker
- Key Worker
- Mental Health Officer
- Advocacy and/or Carer
- Patient
- Patient's Nearest Relative
- Patient's legal representative (if applicable)
- Patient's Funds Officer (PFO)

The facility of Videoconferencing should be available if required.

If patient considered capable no further action required.

If the decision is to apply for authority to manage the patient's funds, the following must apply:

- no other available / appropriate lawful management is in place e.g. DWP appointeeship where a patient's social security benefits are paid direct to a nominee, a financial guardianship order or relevant intervention order is in place or where there is a Continuing Power of Attorney with relevant powers
- decision is consistent with the principles
- discussion has taken place with patient and patient's nearest relative (if possible)
- discussion with relevant others

### **5.1.5 Intimation to Patient**

The patient will be notified of the intention to undertake a medical examination on behalf of the Hospital managers to seek necessary authority to manage the patient's financial affairs, unless the RMO considers it inappropriate to notify the patient.

RMO is required to notify the Health Records Department (Appendix 3) **at least 18 days prior** to the date of the medical examination.

Health Records Department must notify the patient (Appendix 4) **at least 15 days prior** to the date of the medical examination to allow the patient and nearest relative to comment upon the proposed action.

### **5.1.6 Intimation to Nearest Relative: Patient to be notified**

The nearest relative will be notified of the intention to undertake a medical examination on behalf of the Hospital managers to seek necessary authority to manage the patient's financial affairs, unless the RMO and Clinical Team consider it inappropriate to notify the patient's nearest relative.

Notification must be given **at least 15 days prior** to the date of the medical examination to allow the patient and nearest relative to comment upon the proposed action.

Health Records Department will check to ensure the Nearest Relative wishes to have contact from the Hospital. In the case where the relative does not wish to have contact or there is no identified Nearest Relative, this information should be shared with the Supervisory Body who should seek advice from the Central Legal Office (CLO) depending on the individual circumstances.

Health Records Department uses standard letter (Appendix 5) to notify Nearest Relative.

### **5.1.7 Non Intimation to Patient**

In the event that the RMO and Clinical Team consider that intimation to the patient of the intention to undertake a medical examination would be likely **to pose a serious risk to the health of the patient**, the RMO must write to the Supervisory Body seeking direction from the Board that the patient should not receive intimation of intended date of medical examination.

RMO requires to complete a 'Certificate of Informed Decision' whether to Dispense with Intimation or not under Section 37(3) or Action Under Section 37(4) (Appendix 6), and arrange for another Medical Practitioner to complete same and forward to the Health Records Department.

Health Records Department will copy this certificate and distribute as follows:

- Originals to Supervisory Body for approval
- Copy for Original Documents folder
- Copy for Patient's Medical File (RiO)

### **5.1.8 Intimation to Nearest Relative: Patient not notified**

Health Records Department to notify Nearest Relative using standard letter (Appendix 5), including advice and guidance.

### **5.1.9 Objection to Examination by Patient and or Nearest Relative**

If either the patient and/or nearest relative do not agree that an examination should be undertaken, the RMO will inform the Supervisory Body who must ensure that their views and opinions are fully discussed and recorded prior to proceeding further.

The Supervisory Body if, having considered all other appropriate courses of action, decides medical examination should take place will inform the RMO.

## **5.2 Completion of Medical Examination – Patient Capable**

If, following examination by RMO the patient is found to be capable of managing his financial affairs the RMO will inform the Health Records Department using standard form (Appendix 7).

Health Records Department will inform Supervisory Body who will advise Nearest Relative if appropriate.

### **5.2.1 Completion of Medical Examination – Patient Lacks Capacity Ascertain whether Part 4 of the Act applies**

RMO will contact the PFO to ascertain from where patient's income is derived.

If income is derived from DWP benefits only, the Application for DWP Corporate Appointeeship (Appendix 2) should be completed.

Note - for the majority of TSH patients, the Hospital is their Corporate Appointee for the claiming of benefits, however where a patient lacks capacity the completion of the standard form (Appendix 2) will enable the Hospital to open external bank account(s) on behalf of the patient.

If income is made up of DWP benefits and other income, the other income will be managed under Part 4 of the Act and the DWP benefits will be managed under Corporate Appointeeship guidelines. (Appendix 2 and Appendix 8).

Where Part 4 of the Act applies, if following examination by RMO the patient is found to lack capacity for managing his financial affairs, the RMO must complete a 'Certificate of Incapacity' using the standard form (Appendix 8). Following completion of the 'Certificate of Incapacity', the Clinical Team will come to a decision about the appropriate arrangements for the management of the patient's property and affairs. Hospital managers should only assume this responsibility where no suitable arrangements exist or can be made. If appropriate, a 'Notice of Intention to Manage the Financial Affairs of a Resident under Section 37' (Appendix 9) requires to be completed and forwarded to the Health Records Department together with the 'Certificate of Incapacity' (Appendix 8) and 'Certificate of Authority' (Appendix 10) within 3 working days. The Health Records Department will forward the 'Certificate of Authority', 'Certificate of Incapacity' and 'Notice of Intention to Manage the Financial Affairs of a Resident' to the Supervisory Body for authorisation.

**5.2.2** On return the Health Records Department will file the original documents in the original documents folder and forward copies to:

- RMO
- Patient's Medical File (RiO)
- PFO
- Patients Social Worker (should this not be the patient's actual SW?)
- Supervisory Body
- Patient
- Nearest Relative
- Patient's legal representative

**5.2.3** Health Records Department will check to ensure that the Nearest Relative wishes to have contact from the Hospital. In the case where the relative does not wish to have contact, this information should be passed to the Supervisory Body, who should seek advice from the CLO depending on the individual circumstances.

## **5.3 Revocation of Incapacity Certificate**

If after review the patient is deemed capable of managing his financial affairs, a 'Revocation Certificate' (Appendix 11) requires to be completed by the RMO and forwarded to the Health Records Department. A copy of the 'Revocation Certificate' and 'Certificate of Authority' will then be forwarded to the Supervisory Body.

The original 'Revocation Certificate' and 'Certificate of Authority' will be filed in the original documents folder and copies forwarded to the above group of people:

**5.3.1** Health Records Department will check to ensure the Nearest Relative wishes contact from the Hospital. In the case where the relative does not wish contact, this information should be shared with the Supervisory Body, who should seek advice from the CLO depending on the individual circumstances.

#### **5.4 Discharge and Transfer**

RMO will inform the Health Records Department of arranged date of transfer/discharge.

**5.4.1** Health Records Department will email the Social Work Department and PFO with date of discharge/transfer.

**5.4.2** PFO will liaise directly with ward.

**5.4.3** When a patient who lacks capacity is transferred/discharged the Finance Department must continue to manage his affairs for an interim period of up to 3 months while such other arrangements as are necessary for managing his affairs are being made.

### **6. STRUCTURE AND RESPONSIBILITY**

#### **CLINICAL TEAM ASSESSMENT**

**6.1** The Clinical Team (led by the RMO) will review capacity as part of the Admission CPA Meeting and at the patient's six monthly CPA Review.

**6.2** Where the Clinical Team has identified there may be incapacity with regards to the patient being able to manage his own financial affairs, a formal assessment will be undertaken by the RMO.

**6.3** The Clinical Team will consider the need to apply for authority to manage the patient's funds.

**6.4** The Clinical Team should come to a decision about the appropriate arrangements for the management of the patient's property and affairs. Hospital managers should only assume this responsibility where no suitable arrangements exist or can be made.

#### **RESPONSIBLE MEDICAL OFFICER (RMO)**

**6.5** The RMO is responsible for informing the Health Records Department of the intention to undertake a Medical Examination to establish capacity (see Appendix 3).

**N.B. This intimation must be forwarded 18 working days prior to the examination taking place.**

**6.6** If appropriate, the RMO completes the 'Non Intimation to Patient Form' (Appendix 6) under Section 37(3) and or under Section 37(4) of the Act.

**6.7** The RMO is responsible for arranging for another authorised medical practitioner to complete an additional 'Non Intimation to Patient Form'.

**6.8** The RMO undertakes a Medical Examination to establish capacity.

#### **6.8.1 If Patient Lacks Capacity**

Manage under Corporate Appointeeship by completing Appendix 2 and

Under the terms of Part 4 of the Act by completing the 'Certificate of Incapacity' (Appendix 9). If appropriate following discussion with the Clinical Team, a 'Notice of Intention to Manage the Financial Affairs of a resident under Section 37' (Appendix 9) and 'Certificate of Authority' (Appendix 10) should be forwarded to the Health Records Department with the 'Certificate of Incapacity' **within 3 working days of the certificate having been completed.**

### 6.9 Renewal of 'Certificate of Incapacity'

The RMO will be notified by the Health Records Department 2 calendar months prior to the renewal date of the 'Certificate of Incapacity'.

### 6.10 Revocation of 'Certificate of Incapacity'

If, as a result of ongoing review, a patient is then considered capable of managing his financial affairs, the RMO will complete a 'Certificate of Revocation' (Appendix 11) and forward immediately to the Health Records Department.

### 6.11 Discharge/Transfer of Patient from The State Hospital

RMO to inform Health Records Department immediately of agreed date of discharge/transfer.

## SENIOR CHARGE NURSE (or LEAD NURSE in absence of SCN)

6.12 For patients whose funds are managed under Section 42 of the Act, by Hospital Managers, the SCN / Lead Nurse will continue to have:

- overall responsibility for the day to day expenditure on behalf of the patient and for ensuring non-consumable goods purchased are looked after.
- responsibility to ensure that all expenditure requests are authorised by 2 members of nursing staff (preferably Charge Nurse and SCN)
- notification to Clinical Team of any individual exceeding limits in clause 6.12.1.

6.12.1 The following table summarises the regulations in this complex area, including guidance on individual sums that can be spent on the patient's behalf **for both Part 4 of the Act and Corporate Appointeeship:**

### MANAGED UNDER PART 4 / CORPORATE APPOINTEESHIP

<b>Funds below £10,000 (including cash, shares, bank accounts)</b>		
	<b>Individual sums</b>	<b>Annual cumulative sum</b>
SCN / Lead Nurse	Up to £200 (including telephone calls, takeaway meals, postages) or 4 withdrawals within a month other than above expenditure	Up to £3,000
SCN / Lead Nurse and RMO (on behalf of Clinical Team)	£201 - £1,000	£3,001 - £5,000
Senior Management Team/ Corporate Management Team	£1,001 - £10,000  Over £1,001 (Corporate Appointeeship)	£5,001 - £10,000 Over £5,000 (Corporate Appointeeship)
<b>Funds above £10,000 (including cash, shares, bank accounts)</b>		
	<b>Individual sums</b>	
Supervisory Body	Any amount. Hospital Managers managing the patients affairs must write to the Supervisory Body for authorisation (Appendix 12).	
<b>Moveable Property (e.g. furniture, pictures, jewellery, personal effects)</b>		
	<b>Individual sums</b>	
SCN / Lead Nurse on behalf of Clinical Team	Up to £100	
Supervisory Body	Over £100	



Examples of goods and services that can be purchased through the use of personal funds of adults with incapacity are included in Appendix 6 of the Act Code of Practice

Adults with incapacity: code of practice for managers of authorised establishments - gov.scot

## **SOCIAL WORK DEPARTMENT**

**6.13** The Social Work Department has an important responsibility in terms of assessment, post discharge, care planning and through its role in the Clinical Team.

**6.13.1** As part of the admission assessment, the Social Work Department will review the patient's financial circumstances including, when appropriate, mechanisms for managing finances.

**6.13.2** A Social Worker will be available to the Nearest Relative with a view to ensuring that they have access to information for advice with regards to the management of patient's funds as appropriate and that their views are adequately represented.

**6.13.3** Prior to discharge to the community, the Social Work Department will be required to reassess the patient's financial circumstances and review the need for additional support (statutory or non statutory) for the management of finances.

## **PATIENT'S FUNDS OFFICER (PFO)**

**6.14** The PFO is responsible for ensuring that information about the patient's funds is up to date and that the income from relevant benefit entitlements is maximised. The PFO is also responsible for administering each Adult with Incapacity funds in line with the decisions made by the SCN, Lead Nurse or Supervisory Body and that appropriate authorisation is obtained prior to purchases being made.

The PFO will prepare monthly statements for each patient, listing details of the items purchased and balance held and forward same to the patient's Clinical Team SCN, Lead Nurse and Social Work Manager / Team Leader on a monthly basis.

**6.14.1** When a patient who lacks capacity ceases to be a current patient, the Hospital must continue to manage his affairs for an interim period of up to 3 months while such other arrangements as are necessary for managing his affairs are being made.

**6.14.2** On receipt of a discharge/transfer date from Health Records Department, the PFO will liaise directly with the SCN in relation to the management of the patient's financial affairs for an interim period of 3 months to allow arrangements as necessary to be made with the manager at discharge/transfer location.

## **ADVOCACY SERVICE**

**6.15** The Patient Advocacy Service is responsible for ensuring that the patient's views are adequately represented, if the patient so requests. There may be a need for independent advocacy for the nearest relative, in cases where the Clinical Team decides that Section 42 powers should be used. The nearest relative is responsible for sourcing this input as the service that the Hospital provides is limited to patients.

## **HEALTH RECORDS DEPARTMENT**

**6.16** Upon receipt of the 'Intimation of Intended Medical Examination' from the RMO Medical Records Department will;

### **6.16.1 Patient to be Informed**

Inform patient and nearest relative (if applicable), (see Appendix 4). If disagreement by patient or nearest relative, Health Records Department will inform the RMO immediately.

### **6.16.2 On Receipt of Signed 'Certificate of Authority'**

On return of authorised 'Certificate of Authority' from the Supervisory Body, the original certificate is to be retained in the Original Documents Folder. The Health Records Department will forward copies of all documents to:

- RMO
- Patient
- Patient's Nearest Relative
- Patient's legal representative
- Medical Director
- PFO
- Social Work Department
- Patient's Medical File (RiO)

### **6.16.3 On Receipt of a 'Certificate of Revocation'**

On receipt of a Certificate of Revocation from the RMO, the Health Records Department will forward a copy of the relevant documents to the Supervisory Body.

**6.16.4** The Health Records Department will retain the original Certificate of Revocation in the Original Documents Folder and forward copies to the following:

- RMO
- PFO
- Social Work Department
- Patient's Medical File (RiO)

### **6.16.5 Transfers/Discharges**

On receipt of a date of transfer/discharge of a patient from TSH from RMO, the Health Records Department will communicate the date by email to:

- Social Work Department
- PFO

### **6.16.6 Renewal of Certificate**

The Health Records Department is responsible for forwarding reminders to the RMO 2 calendar months prior to when Certificate of Incapacity is due for renewal.

## **Adults with Incapacity (AWI) – Management of Patient's Finances Review Group**

**6.17** There will be 6 monthly inspection reviews carried out on patient's transactions. The meetings will be arranged by the relevant RMO's secretary. The team reviewing the transactions will consist of the following:

- Patient's RMO
- Patient's SCN / Lead Nurse
- Head of Financial Accounts or PFO
- Patient's Social Worker

**6.18** The inspection review will undertake to:

- scrutinise the patient's care planning review records to ensure that they reflect the management, supervision and review of the patient (including management of funds) throughout the 6 month period and that the patient's capacity to manage his own affairs has been reviewed at least annually and this is recorded in the care plan.
- check any certificates included with the care plan to ensure they are in order.
- complete Appendix 1
- initial and date any records reviewed as evidence of checking.

**6.19** An annual report will require to be prepared in time for the April board meeting and also issued to the Mental Welfare Commission.

## **7. RECOMMENDATIONS FOR AUDIT AND RECORDS**

**7.1** Expenditure incurred on behalf of individual patients will be detailed monthly in accordance with the normal Finance Department procedures, and reported to the SCN, Lead Nurse, RMO and Social Work Manager.

**7.2** Internal audit will carry out a review of the Patients' Funds system as well as adherence to the Adults with Incapacity Policy & Procedures as part of their regular audit programme. This review will meet the Quantitative Monitoring requirements of the Act. Key Indicators will include:

- numbers of patients involved
- what the money is spent on
- evidence that the spending decisions made are to the patient's benefit

If issues are identified, these will be dealt with through the Board's agreed procedures.

## **8. CORPORATE RESPONSIBILITY**

- Director of Finance and eHealth
- Medical Director

## **9. RECORDS**

- Incapacity certificate: Notice of Intention: Revocation Certificate
- Certificate of Authority to Manage Patient Financial Affairs – **must be issued annually**
- Relevant extract from Clinical Team minutes
- State Hospital AWI-Management of Patient's Finances Review Group minutes
- Annual Report to Chief Executive and to Mental Welfare Commission

## **10. COMMUNICATION, IMPLEMENTATION, MONITORING AND REVIEW**

This policy will be communicated to all stakeholders within The State Hospital via the intranet and through the staff bulletin.

The Child and Adult Protection Forum will be responsible for the implementation and monitoring of this policy. The policy will be formally reviewed every 3 years.

## **11. FORMAT**

The State Hospitals Board recognises the need to ensure all stakeholders are supported to understand information about how services are delivered. Based on what is proportionate and reasonable, we can provide information / documents in alternative formats and are happy to discuss with you the most practical and cost effective format suitable for your needs. Some of the services we are able to access include interpretation, translation, large print, Braille, tape recorded material, sign language, use of plain English / images.

If you require information in another format, please contact the Person Centred Improvement Lead on 01555 842072.

<b>Key Stakeholders</b>	<b>Consulted (Y/N)</b>
Patients	N
Staff	Y
TSH Board	N
Carers	N
Volunteers	N

## ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000

## CLINICAL TEAM / PATIENTS CPA REVIEW MEETING

Patient Name: \_\_\_\_\_

CHI No: \_\_\_\_\_

Ward: \_\_\_\_\_

Meeting Date: \_\_\_\_\_

Venue: \_\_\_\_\_

Present:

Apologies:

**The Minute of the meeting must give as much detail as possible to aid senior officers in their decision making, which must include as a minimum:**

Consideration of options other than part 4 of the Act, management and record of the reasons why alternative methods to deal with finances under the Act, such as Corporate Appointeeship, parts 3 and 6, were considered unsuitable.

- A description of the expected benefit to the patient of managing under part 4 of the Act
- A record of whether the patient's views have been included in the discussion
- A record of the views of the Nearest Relative.
- A record of the views of others such as family or social work.
- Demonstration of ongoing assessment of capacity (where part 4 of the Act is in place).
- A note of any increase in the patient's funds and an explanation of why this occurred and how it will be addressed
- A review of previous expenditure
- Proposed future regular expenditure and one off purchases

**\* A separate financial spending plan should accompany the minutes and where appropriate this should explain how the patient will be supported to utilise/develop residual skills**

**Manage under DWP Corporate Appointeeship**

Patient Name: ..... CHI No: .....

Home Address: .....

Admission Date: ..... Ward: .....

Benefit Details: (to be completed by Finance)

e.g. Which benefits? Who they are currently paid to?

NI Number: .....

**Statement of Capacity to Handle Affairs**

I hereby certify that the above named patient lacks capacity, by reason of his mental disorder, of managing and administering his property and financial affairs.

Signature: ..... Designation: .....

Name (PRINT): ..... Date: .....

- Original - send to Health Records Department
- Copy - Patient Funds
- Copy - Patient's file in Ward / RiO

Health Records Manager  
Health Records Department

Date

Dear

**RE: Patient** ..... **Date of Birth** .....

I, Dr .....(full name of Medical Practitioner)  
of .....(professional address), intend  
to examine .....(patient's name)  
...../...../..... (DOB) to establish capacity under Section 37(2) of the Adults with  
Incapacity Act 2000. The intended date of the examination is ...../...../.....

I consider it appropriate / inappropriate that the patient should be notified of my intention to  
examine.

Yours sincerely

<b>For Office Use Only – Check that Nearest Relative wishes contact from the Hospital.</b>	<b>YES</b>	<b>NO</b>
--	------------	-----------

Dear

Date

**RE: Patient .....**      **Date of Birth .....**

At the Clinical Team CPA Review Meeting on ...../.../.... it was agreed that consideration should be made to establish your capacity to manage your financial affairs, under Section 37(2) of the Adults with Incapacity (Scotland) Act 2000. This would allow the Hospital to manage your financial affairs and ensure that there are appropriate measures in place in order for you to gain maximum benefit and protection for your finances.

The first stage of the process is for a medical examination to be carried out to determine whether or not you lack the capacity to manage your own financial affairs. This medical examination is due to take place on ...../.../.... : Ward .....

If you do not agree that a medical examination should take place, please contact your Clinical Team or via staff involved in your care so that your views and opinions may be fully discussed.

If you have any questions about Adults with Incapacity, advice and guidance is available from the Patient Advocacy Service or Social Work Department at The State Hospital as well as the Office of the Public Guardian (O.P.G.), the Local Authority and the Mental Welfare Commission.

Yours faithfully

The State Hospital



Name

Date

Address

Dear

**RE: Patient** ..... **Date of Birth** .....

As the Nearest Relative of ..... I am writing to inform you of my intention to carry out a medical examination under Section 37(2) of the Adults with Incapacity (Scotland) Act 2000 on ...../...../..... to establish if he has the capability to manage his financial affairs.

This letter is sent in accordance with Section 37(3) of the Adults with Incapacity (Scotland) Act 2000, instructing that a letter be sent to the patient and the Nearest Relative of a patient residing within The State Hospital intimating that a medical examination will be carried out.

If you have any objections, please contact the patient's RMO.

If you have any questions about Adults with Incapacity, advice and guidance is available from the Social Work Department at The State Hospital and also, the Office of the Public Guardian (O.P.G), the Local Authority and the Mental Welfare Commission.

Yours faithfully

The State Hospital

**ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000 (“the Act”):  
CERTIFICATE DECISION WHETHER TO DISPENSE WITH INTIMATION UNDER SECTION  
37(3) OR ACTION UNDER SECTION 37(4)**

I .....(full name of medical practitioner)

of .....

.....(professional address)

have examined.....(patient’s name),

...../...../.....(patient’s date of birth), of The State Hospital on ...../...../.....(date)

in my capacity as.....\*

I am in the opinion that it would pose a serious risk to the health of the patient named above for him to be notified:

- that his capacity is to be medically examined under section 37(2) of the Act;
- of the result of that medical examination
- that his affairs are to be managed under section 37 of the Act\*\*

The reason for this opinion is.....

.....  
.....  
.....

description of reason

I am not related to the patient or to any of the State Hospital managers, nor do I have any direct or indirect financial interest in The State Hospital being the authorised-establishment.

**PTO**

\*\*\*I am a medical practitioner approved by .....(approving body) for the purposes of section 7 of the Mental Health (Scotland) Act 2003 as having special experience in the diagnosis or treatment of mental disorder.

.....(signature of medical practitioner)

.....(printed name)

...../...../.....(date)

\* the person signing the certificate must be a medical practitioner; insert as appropriate e.g. GP, specialist in mental disorder.

\*\* if any alternative is inappropriate, please delete it.

\*\*\* delete if this is not the case.

Health Records Manager  
Health Records Department

Date

Dear

**RE: Patient..... DOB .....**

I Dr ..... (full name of Medical Practitioner)

Of .....(professional address) have examined the  
above patient ...../...../.....(DOB) on ...../...../.....

I am of the opinion that he is capable of managing his financial affairs.

Yours sincerely

**ADULTS WITH INCAPACITY (SCOTLAND) Act 2000 (“the Act”):  
CERTIFICATE OF INCAPACITY IN RELATION TO DECISIONS AS TO, OR  
SAFEGUARDING INTEREST IN, PATIENT’S AFFAIRS.**

I .....(full name of medical practitioner)

Of .....

.....(professional address)

have examined.....(patient’s name),

...../...../.....(patient’s date of birth),

Of.....

.....

.....(authorised establishment where patient lives)...../...../.....(date) in my capacity

as.....\*

I am of the opinion that he lacks capacity in relation to:

- Decisions as to\*\*
- safeguarding his interests in\*\*

Any of the affairs referred to in section 39 of the Act.

This is because of:

- Mental disorder\*\*
- Inability to communicate because of physical disability\*\*

Please give a brief description of mental disorder/inability to communicate

.....  
.....  
.....

I am not related to the patient or to any of the State Hospital managers, nor do I have any direct or indirect financial interest in the State Hospital being the authorised establishment.

**PTO**

In assessing the capacity of the patient, I have given effect to the principles set out in section 1 of the Act.

..... (signature of medical practitioner)

..... (printed name)

...../...../..... (date)

Note: In accordance with section 37(7) of the Act, this certificate shall expire on

.....(three years after date of signature), but it shall be reviewed before that date where it appears that there has been any change in the condition or circumstances of the patient named in this certificate bearing on that patient's incapacity.

\* The person signing the certificate must be a medical practitioner; insert as appropriate e.g. GP, specialist in mental disorder.

\*\* One of these must be deleted unless both apply.

**To The State Hospitals' Board for Scotland  
 Notice of Intention to Manage the Financial Affairs of a Patient Under Section 37  
 ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000**

Patient's Details	
Name:	Address:
Date of Birth:	

Nearest Relative's Details	
Name:	Address:
Telephone:	

Dept of Work & Pensions Appointee: Enter Details or State "None"	

The following have been consulted:	
Name:	Role:
	Nearest Relative
	Primary Carer

The following alternative actions have been considered but are deemed inappropriate for the stated reasons:	
Please complete overleaf	

**Notice of Intention to Manage the Financial Affairs of a Patient Under Section 37  
ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000**

This Intervention will start on: enter same date as Incapacity Certificate	and initially will last for
with it being reviewed as follows	
The anticipated benefits of the intervention to the patient are:	

The Accounts and Sources of Funds to be managed are:
1
2
3
4

The Persons to be Authorised to withdraw & spend from these accounts and sources are (at least two signatures required)	
1 Lead Nurse	Signature
2 Senior Charge Nurse	Signature
3 Charge Nurse	Signature

A Medical Certificate of Incapacity is attached	
.	Date

**Supervisory Body (Chief Executive) to complete**

Signed	Name (Print)
Date	Position



**ADULTS WITH INCAPACITY (SCOTLAND) Act 2000 (“the Act”)  
PART 4 CERTIFICATE OF AUTHORITY UNDER SECTION 42**

This certificate is issued by The State Hospital as supervisory body in relation to Part 4 of the Adults with Incapacity (Scotland) Act 2000. During the period of validity of the certificate, the authorised person(s) may make withdrawals from the specified accounts or other sources of funds of the patient. The fund holders may make payments accordingly.

The maximum amount of funds to be held under this authority is £10,000 (unless permission has been granted by the Supervisory Body to manage funds in excess of this amount on a letter attached to this certificate).

Patient’s name, date of birth and address:

Specified accounts or sources of funds to be managed;

- 1.
- 2.
- 3.
- 4.

Authorised persons

- 1.
- 2.
- 3.

Period of validity of certificate: .....

This certificate is valid until: .....

.....Signature

**Note: only persons named in this Certificate of Authority as “authorised persons” will have authority to withdraw or spend any cash belonging to a resident or to withdraw or spend funds from a resident’s account.**

**ADULTS WITH INCAPACITY (SCOTLAND) Act 2000 (“the Act”)**

**CERTIFICATE OF REVOCATION**

Full Name &	
Professional address	

Being the Responsible Medical Officer, certify that I have today examined:

Full name of patient	
Date of birth	

I am of the opinion that the incapacity has ended. I therefore revoke the certificate signed on :

Signed: .....RMO

Date: .....

To Supervisory Body (Chief Executive on behalf of Board)

Date

**Management of Patients Finances  
Part 4 – Adults with Incapacity (Scotland) Act 2000**

**RE: Patient .....**      **Date of Birth .....**

By the direction of a current Certificate of Authority the above named patient's funds are currently managed by me as authorised manager. These funds are currently or will be prior to the time of the next review in excess of £10,000. It was agreed at a Clinical Team Meeting held on ..../..../.... that permission should be sought of the Supervisory Body to continue to manage these funds at level above **£10,000** and to a maximum amount of **£.....**

I have included evidence that:

1. Consultation with others took place.
2. Alternatives to Part 4 Management were considered and why they were rejected
3. A statement as to why the patient's funds are best managed under Part 4 of the Act
4. The principles of the Act were considered in the decision making process

I confirm that the patient has a valid Certificate of Incapacity under section 37(2) and Certificate of Authority and under section 42 and that I have a current note of authority to allow me to manage the funds.

Yours sincerely

Authorised Manager

To Supervisory Body (Chief Executive on behalf of Board) Date

**Management of Residents Finances: Part 4 – Adults with Incapacity (Scotland) Act 2000**

**RE: Patient .....**      **Date of Birth .....**

By the direction of a current Certificate of Authority the above named patient's funds are currently managed by me as authorised manager. It was agreed in a Clinical Team Meeting held on ..../..../.... that permission should be sought of the Supervisory Body to dispose of moveable property for the resident above the value of £100. I have listed the property to be disposed of and the reason why:

**[Insert details of property]**

I confirm that the patient has a valid Certificate of Incapacity under section 37(2) and Certificate of Authority under section 42 and that I have a current note of authority to allow me to manage the funds.

Yours sincerely

Authorised Manager

**Adults with Incapacity (Scotland) Act 2000**  
**Application for Management of Residents Finance Under Part 4**

