

T: 0131-244-3793 F: 0131-244-
E: Eilidh.Smith@scotland.gsi.gov.uk

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Directors of Social Work
Chief Social Work Officers
Chief Executives of Local Authorities
Directors of Finance of Local Authorities
Relevant Third Sector Organisations – see Annex A
COSLA
ADSW

In 2014 Scotland Welcomes the World



May 21, 2014

Dear Colleague,

NOTIFICATION OF CHANGES TO THE ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000, PART 4, CODES OF PRACTICE

As a result of the UK Government's emergent Welfare Reform, references to a number of UK wide benefits identified within the codes have required to be up-dated. This letter provides notification of changes to the Adults with Incapacity (Scotland) Act 2000, Codes of Practice, relating to Part 4 of the Act.

Appendix 1 of the codes refers to particular benefits which cannot be managed under the act. An update of some named benefits was necessary to reflect changes throughout the UK legislation.

References in the Codes to appendix 1 have also been updated. These updates are in the following paragraphs:

Supervisory Bodies Code:
Paragraph 5 (page 6), Paragraph 6.7 (page 55)

Managers Code:
Paragraph 5 (page 6), Paragraph 7.3 (page 31)

In addition I would like to draw your attention to some changes made to the examples of goods and services which can be purchased through the use of personal funds, as set out in Appendix 6.

I attach a copy of the updated appendices 1 and 6 with this letter.

Please arrange to cascade this Circular to anyone who has an interest in Adults with Incapacity.

If you have any queries in relation to this matter please contact Eilidh Smith, Eilidh.Smith@scotland.gsi.gov.uk

This circular is also available on Scottish Health on the Web at: <http://www.show.scot.nhs.uk/sehd/ccd.asp>

Yours sincerely,

Eilidh Smith

Circular Copied to:

Annex A

Age Scotland
Alzheimer's Scotland
Association of Directors of Social Work
ARK Housing Association
Audit Scotland
Bield Housing Association
BUPA
Capability Scotland
Care Commission
Care Information Scotland
Citizen's Advice Scotland
Commission for Racial Equality (Scotland)
Community Care Providers Scotland
COSLA
Cornerstone Community Care
Counsel and Care
CrossReach
ELCAP Ltd
ENABLE
Equal Opportunities Commission
Housing Support Enabling Unit
People First Scotland
Quarriers
RNIB Scotland
RNID Scotland
Salvation Army
Social Work Inspectorate Agency
Scottish Care
Scottish Churches Parliamentary Office
Scottish Consortium for Learning Disabilities
Scottish Council for Voluntary Organisations
Scottish Council for Deafness
Scottish Federation of Housing Associations
Scottish Human Services Trust
Scottish Older People's Helpline
Scottish Pensioners Forum
Housing Support Enabling Unit
The Abbeyfield Society for Scotland Ltd
The Scottish Community Care Forum
United Kingdom Home Care Association
Values into Action Scotland

Appendix 1

Benefits which may not be managed under Part 4

Part 4 of the Adults with Incapacity (Scotland) Act 2000 makes provision for the management of the affairs of residents in certain types of establishments. Section 39 lists the matters that such managers may manage. The benefits paid under the Social Security Contributions and Benefits Act 1992, the State Pension Credit Act 2002, Part 1 of the Welfare Reform Act 2007 and Parts 1 and 4 of the Welfare Reform Act 2012 are excluded from this. That means the benefits detailed below may not be managed in terms of Part 4 of the Adults with Incapacity (Scotland) Act 2000:

- Retirement Pension: Categories A, B, C, D
 - Graduated Retirement Pension
 - Disablement Pension
 - Shared Additional Pension
- Maternity Allowance
- Bereavement Benefits: Bereavement Allowance
 - Bereavement Payment
 - Widows Pension
 - Widowed Mothers Allowance
 - Widowed Parents Allowance
- Attendance Allowance
- Severe Disablement Allowance²
- Disability Living Allowance¹
- Incapacity Benefit²
- Guardian's Allowance
- Industrial Injuries Benefits: Disablement Benefit
 - Reduced Earnings Allowance
 - Retirement Allowance
 - Industrial Death Benefit
- Child Benefit
- Income Support¹
- Social Fund³:
 - Winter Fuel Payments
 - Social Fund Maternity
 - Funeral Expenses
- Housing Benefit¹
- Council Tax Benefit³
- Carer's Allowance

- Employment and Support Allowance¹
- State Pension Credit
- Universal Credit (4)
- Personal Independence Payment (4)

In the list above:

- ¹ indicates benefits which will be replaced by the Universal Credit or Personal Independence
- ² indicates benefits which have already been replaced with other benefits included in the list as a result of earlier reforms, and are being phased out. Some Severe Disablement Allowance cases will remain where recipients are over state pension age.
- ³ indicates benefits which are being abolished, with responsibility for successor arrangements
- (4) indicates benefits introduced by the Welfare Reform Act 2012. From April 2013 these are being introduced progressively across the UK. The date for introduction to Scotland has still to be announced. Universal Credit replaces a number of existing benefits which may not be managed under Part 4 of the 2000 Act. The Personal Independence Payment replaces the Disability Living Allowance for people aged 16 to 64years old.

Appendix 6

As stated under paragraph 7.66 of the Code of Practice for Managers of authorised establishments, managers must only spend a resident's money on items or services which are of benefit to the resident and they may not spend money on items or services which are provided by the establishment as part of its normal service.

In spending any money or funds belonging to a resident, managers must in each case take into account the general principles of the Act (paragraphs 1.17 to 1.20 of the Code). This includes that all decisions should reflect a person-centred approach and should be taken by whatever multi-disciplinary group is responsible for planning and reviewing the care and support that is provided for the resident.

Under paragraph 6.31 of the Code in practical terms, the focus for managers should always be upon how the resident's funds might be used imaginatively to improve his or her quality of life on the basis of their known likes and dislikes. In seeking to achieve this objective, managers should consult on a regular basis with others involved with the resident and should take into account any particular interests or hobbies that the person was known to enjoy before their incapacity developed.

The following list provides examples of a range of goods and services for which a resident's funds may be used. Not all examples may be considered appropriate in all circumstances.

Personal Services

Access to a range of personal services such as:

- Hairdressing
- Services of a private chiropodist
- Beautician
- Provision of someone to read and talk to residents, or take them out on a one to one basis
- Befriending services

Recreation

The purchase of equipment, materials or services providing access to a range of activities of interest to the individual including:

- Music
- Subscriptions to magazines/ newspapers
- Books, games and magazines (including Braille, large print etc.)
- Personal computer, tablets and games
- Hobbies

Arts and Crafts

The purchase of arts and crafts equipment, materials or services providing access to a range of activities of interest to the individual including:

- Sewing equipment
- Painting, drawing
- Equipment for the cultivation of indoor plants

- Fees for courses or evening classes

Pets

The purchase of tropical fish and fish tanks or access to other animals of interest to the individual

Outings

Access to a range of activities outside of the home of interest to the individual such as:

- Purchase of tickets for outings to cinemas, theatres and recreation centres
- Visits to relatives
- Entertaining relatives and friends
- Shopping trips

Personal Possessions

The purchase of more personalised items including:

- Plants
- Personal ornaments and pictures
- Items of furniture
- Toiletries and make-up
- Electric blankets
- Writing materials
- Jewellery
- Clothing
- Special personal equipment e.g. portable foot spa
- Electric shavers, toothbrushes, hairdryers and blankets

Consumables

The purchase of consumables including:

- Carry out foods
- Special items; e.g. birthday cakes
- Snacks
- Confectionery
- Soft drinks
- Cigars, pipes and tobacco

Funeral Expenses

The purchase or maintenance of Insurance policies to cover funeral expenses

Specialist equipment

If purchase is beneficial to the recipient but would not be supplied under National Care Home contract or by the NHS:

- Chairs
- Mattresses

- Beds
- Specialist hearing aids

Miscellaneous

- Outings on birthdays, anniversaries and other special occasions
- Purchase of holidays or weekend breaks
- Subscription to joint purchases such as bird tables, fish tanks, pets and pet food, veterinary services

A record of all purchases and an explicit inventory must be kept.