

# Notes to complete ATF (2) Form



# 1. Introduction



This form should be used where the applicant is an individual or individuals or an organisation, who wish to apply to open a bank or building society account and/or access an adult's funds for the purpose of settling any debts incurred by the adult and for paying necessary day-to-day and ongoing costs on behalf of the adult. It may also be used to request a lump sum for a specific item which would be of benefit to the adult, for example, specialised equipment.

If you require assistance to complete this form please contact the Office of the Public Guardian (OPG) where staff will be happy to help. Applicants should refer to the Code of Practice for Access to Funds when considering making use of this scheme.

**Section 1** requests details of the adult, applicant and all other persons who may have an interest in the application and should be completed as fully as possible.

## SECTION 1.1 CURRENT DETAILS OF ADULT

An adult is the person you are applying on behalf of. Please complete fully with the address of where the adult is currently residing at the time of making the application, even if the adult resides in a residential care home or is currently in hospital.

A copy of the application will be sent to the adult and other persons identified in this application. If you consider that a copy of the application should not be sent to the adult as it would pose a serious risk to the adult's health please tick the box.

**Simply to indicate that the adult would not understand the application or would be upset by it is not sufficient grounds for non-intimation.**

If you have ticked the box the Public Guardian will require you to lodge with this application form a medical certificate (in the form of SSI79) completed by two medical practitioners. One medical practitioner must be a specialist under the terms of the Mental Health Care and Treatment Act. A copy of form SSI79 is enclosed.

**If you previously submitted a medical certificate (SSI79) on a request for bank account information application form (ATF 1) and were issued with a letter of authority to contact a bank/building society etc, you are not required to complete it again for this application.**

## SECTION 1.2 DETAILS OF THE APPLICANT (INDIVIDUALS ONLY)

An applicant should be the person who intends to become the withdrawer. Where more than one person applies they will become joint withdrawers.

## SECTION 1.2 DETAILS OF THE APPLICANT (ORGANISATIONS ONLY)

An application by an organisation should only proceed beyond this point if it has been confirmed by the Public Guardian that the organisation has met the criteria to be fit and proper for the purpose of acting in terms of Part 3 of the Adults With Incapacity (Scotland) Act 2000. If that is the case, your organisation will have been issued with a “List Number” which should be entered on the application. If not, your organisation must satisfy the Public Guardian of this requirement by completing the Fitness to Access Funds form prior to completing this application. Details of a contact person within the organisation must be supplied and this person should read and complete section 3 on behalf of the organisation. This will be the person who will be sent the Certificate of Authority.

## SECTION 1.3 DETAILS OF RESERVE WITHDRAWER

A reserve may be identified where only one withdrawer is to be appointed. If not required or identified in this application this may be applied for at a later time using form ATF(4). This section is not applicable where individuals are applying jointly or for organisations.

## SECTION 1.4 DETAILS OF THE NEAREST RELATIVE

A nearest relative is defined as a person who is resident in the UK and over the age of 18 years in the following order:

- Spouse (unless a court order of divorce, separation or nullity of marriage has been granted) or co-habitee same sex partner for a period of not less than 6 months or co-habitee in a husband and wife relationship for a period of not less than 6 months
- Child (eldest)
- Parent
- Brother or sister
- Grandparent
- Grandchild
- Uncle or aunt
- Nephew or niece
- Unrelated person i.e. a person with whom the adult has ordinarily resided for not less than 5 years

In certain circumstances an adult may ask a sheriff to make an order which will stop certain information being given to the nearest relative. In making such an order, the sheriff will have named another person to act as the nearest relative. This will only be for the purpose of any application made in terms of this Act. This person may be another relative e.g. nephew or niece or somebody else e.g. friend or neighbour.

### SECTION 1.5 DETAILS OF THE PRIMARY CARER

The primary carer is the person who has day-to-day responsibility to look after the needs of the adult.

If the adult is in hospital or a care home etc you should identify the primary carer as being the Manager or Officer in Charge of the Ward, Care Home or other establishment.

### SECTION 1.6 DETAILS OF THE NAMED PERSON

Please complete if the adult has a named person. A named person is someone who, in terms of the Mental Health (Care and Treatment) Scotland Act 2003, has powers and rights to represent and safeguard the adult's interests.

### SECTION 1.7 DETAILS OF THE ATTORNEY, INTERVENER OR GUARDIAN

Please complete if you know that an attorney, intervener or guardian has been appointed to deal with the welfare and/or financial needs of the adult.

### SECTION 1.8 DETAILS OF ANY OTHER INTERESTED PARTIES

Please complete this section with details of any other person who has an interest in the adult's affairs e.g. other family members, carer, friend etc who have not already been identified in the application form.

## 2. Financial Information



### SECTION 2.1.1 ADULT'S EXISTING ACCOUNT

If the adult has an account in his/her sole name which is suitable for the purpose of access to funds this should be identified here. A suitable account is basically one which allows standing orders/direct debits to be set up on it.

### SECTION 2.1.2 DETAILS OF PROPOSED NEW ACCOUNT

If the adult does not have an account suitable for the purpose of access to funds, you should identify where you would intend to open such an account once authority has been granted.

### SECTION 2.1.3 DETAILS OF DIRECT DEBITS/STANDING ORDERS

Detail existing standing orders/direct debits set up on the adult's existing current account which you wish to continue or identify those which you wish to set up on this account. Please note that any existing standing orders/direct debits on this account which are not identified here will cease to be paid when you commence to access the adult's funds.

The current account will remain in the adult's sole name and you will have no direct access to funds held therein. Therefore you will not have the authority to amend a standing order or direct debit set up on this account without first applying for authority from the Public Guardian.

Where standing orders/direct debits are to continue or be set up on the adult's account for utility bills, care charges etc, you should not include costs for these items in section 2.1.5.

## SECTION 2.1.4 DEPARTMENT OF WORK AND PENSIONS (DWP)

Please advise if you or someone else is personally in receipt of the adult's State pension and/or benefits. If yes, this application should only be used to access the funds belonging to the adult which are not DWP pension, benefits or allowances, e.g. savings, occupational or private pension, or any other income the adult may be entitled to.

## SECTION 2.1.5 USE OF FUNDS

You should specify the funds which require to be transferred from the current account to the designated account we will give you authority to open once your application has been granted. The applicant must identify the anticipated ongoing monthly expenditure required to meet the adult's financial needs. This information is requested monthly to fit in with a timescale used by most financial institutions.

This is a reasonably straightforward process similar to that probably used in your own household budgeting. The aim is to ensure that the day to day and ongoing living expenses can be paid from the income/funds held in the account and/or savings.

Banks/building societies etc, normally deal with financial matters in monthly periods. Consequently this is the period best suited to this application. Care costs, however, are sometimes calculated in 4-weekly periods so some adjustments would be required. If, however, this does not suit the adult's particular needs you may wish to discuss this with staff at this office.

This section of the form is designed in a way that it covers most of the normal monthly costs such as utility bills, mortgage or rent, council tax etc. There is also a part for any other expenditure under the heading "other – please specify". It is not always possible to have a distinct heading for every eventuality and where an expected expenditure does not fit into the categories shown it should be identified as other and needs to be specified, for example, personal spending money, hairdressing etc.

The period of authority granted will generally be for **3 years** initially, but this may be increased or reduced on cause shown and with inflation and costs always on the increase there is a need to build in an amount for potential increases in services. Where an adult is only in receipt of pensions, benefits or allowances and has little in the way of savings the inflation figure should be a minimal figure.

The examples below show how this can be done.

**Example 1:** If the adult pays rent, currently payable at £100 monthly and calculated at £1,200 in year one (£100 x 12 months), you may wish to allow an extra 10% to be added to the current figure to take into account inflation or any increase which will occur over the three year period of authority. Therefore, you should request £110 per month. You should apply the same logic in terms of other expenses which may be subject to future increases. If you are not sure the staff at this office will assist.

**Example 2:** If the adult is in a care home and costs are currently payable at £250 weekly. This would work out at £1083.33 per month (£250 x 52 weeks divide by 12 months). You may wish to add an extra 10% to this to allow for increases in care fees (provided the adult's current account has sufficient funds to allow this). Therefore you would request £1191.67 per month. You may wish to round this up to £1200 per month.

As indicated above the amounts requested do not need to be exact, but it is important to be sure that there will be sufficient money in the designated account to ensure that the adult is provided for by using his or her funds. Overestimating, within reason, will not be seen as detrimental to the adult.

The Public Guardian will expect to see some form of evidence of anticipated expenditure, for example, utility bills, care home invoices etc as part of the application process.

The Public Guardian may apply a degree of flexibility in that anything which is seen to be reasonable and appropriate does not necessarily have to be supported by invoice or other form of evidence. However, the Public Guardian reserves the right to request further information or evidence when considering an application.

## SECTION 2.1.6 ONE-OFF LUMP SUM

The access to funds process not only allows for regular ongoing expenses to be taken but also allows a one-off lump sum to be requested. This is generally used where there has been a build up of costs due while no-one has authority to access the adult's funds. The examples below show how this can be done.

**Example 1:** An adult may have been in a care home for a period of four months before the application is considered. If the care home costs were £2,000 per month this would build up a debt due of some £8,000. It normally takes four weeks to fully process an application to access funds. Thereafter you will have to open a designated account with a fundholder which may take another few weeks. We would therefore suggest that

you add a further 2 months worth of costs to the current lump sum to take into account this period. Therefore the lump sum request in this example should be approximately £12,000.

The cost of the application and any costs associated with obtaining the medical certificates may be identified as part of the lump sum and can then be reimbursed through the designated account once the lump sum is paid therein.

**Example:** A lump sum request might look as follows:

Outstanding care costs	£12,000
Overpayment of attendance allowance	£ 250
Medical certificate from Doctor	£ 100
OPG registration fee	£ 70
<b>Total Lump Sum request</b>	<b>£12,420</b>

Generally where a lump sum is requested the Public Guardian will expect to see evidence of its purpose in the form of an invoice or similar. In the example shown above, the Public Guardian would expect to see an invoice relative to the outstanding care costs; overpaid attendance allowance and the doctor's fee note.

If the lump sum is to be paid from another account in the adult's sole name, i.e. not the account already specified in section 2.1.1, the details should be entered in this section.

## 2.2.1 – SECOND ACCOUNT

In addition to the adult's current account it is possible to identify an existing account or open another account in the adult's sole name which will be known and operated as the adult's second account. This could be a savings account. It may be that there are funds in other accounts which would benefit from being placed into this second account.

## SECTION 2.2.2 – TRANSFER OF FUNDS ON EXISTING ACCOUNTS

Where the adult has several accounts in his/her sole name it may be that you need to transfer funds between accounts or close accounts.

## 3. Undertaking and Declaration



This section contains an undertaking and declaration which must be read carefully by the applicant and, where identified, any other proposed withdrawers, who should all sign and date the application form.

## 4. Countersignatory Information



This section requires to be completed by a countersignatory who must meet the criteria as set out in section 4.2. If an application, using form ATF(1) involving the adult, has previously been authorised there is no requirement to duplicate certain information within this section. The application form highlights these instances. This section does not apply where the application is made by an organisation.

The person who completes section 4 will effectively support your application and believe that the information contained in the application is true and you can be entrusted with dealing with the adult's financial affairs as far as this application relates.

The countersignatory must read the application form and agree to its content and be satisfied that it is necessary before completing and signing the declaration.

The countersignatory must read the declaration thoroughly and ensure that he/she meets the criteria as set. **If not, that person cannot act as countersignatory in this application.** If there are joint or reserve applicants and you cannot find one countersignatory who meets the criteria for all, you will require a separate countersignatory to support each applicant. Each countersignatory must fully complete a separate section 4. **Countersignatories must be provided for each Joint or Reserve Applicant.**

The countersignatory must declare if he or she is liable to gain financially from involvement in this application and if so the countersignatory must identify the nature and extent in the box provided. A monetary or financial interest is known as a “pecuniary interest”.

The application form must be lodged with the Public Guardian within 14 days of the date of the countersignatory signing the form where required or within 14 days of the applicant signing the form.

## Medical certificate(s)



Medical Certificate SSI No 51 must be completed by a medical practitioner and enclosed with the application form. This should be done before signing or having the application form countersigned.

If a medical certificate SSI No 51 was completed as part of a form ATF(1) process there is no requirement to complete the certificate again when making this application.

Medical Certificate SSI No 79 only requires to be completed where the applicant considers that a copy of the application should not be sent to the adult as it would pose a serious risk to the adult’s health.

**Simply to indicate that the adult would not understand the application or would be upset by it is not sufficient grounds for non-intimation.**

If you have ticked the box in section 1.1 for non-intimation to the adult, the Public Guardian will require you to lodge with this application medical certificate SSI79 which should be completed by two medical practitioners. One medical practitioner must be a specialist under the terms of the Mental Health Care and Treatment Act.

# Registration Fee



A fee is payable for this application and cheques should be made payable to the “Scottish Court Service”. However, if you have already applied to obtain account information using form ATF(1) the fee will be waived provided this application is received within four months of the certificate of authority having been issued to you. Please note that any supplementary applications will be subject to an additional fee.

A note of the Public Guardian’s fees is available on our website [www.publicguardian-scotland.gov.uk](http://www.publicguardian-scotland.gov.uk) or can be obtained by phoning the office.

## FEE EXEMPTION

The registration fee for an application to access funds may be the subject of exemption. The applicant will be required to complete the Application for Exemption of Fee and provide supporting documentation to confirm that the necessary criteria identified in the exemption form has been met, i.e. the adult must be either in receipt of income support, income-based jobseeker’s allowance, working families’ tax credit and/or disabled person’s tax credit and/or the estate value is less than £16,000.

# Further Assistance



Use the checklist located near the end of the application form to ensure you have completed all the information requested and then send your application to the Public Guardian.

If you require assistance to complete this form please contact the Office of the Public Guardian (Tel No 01324 678300) where staff will be happy to help.

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