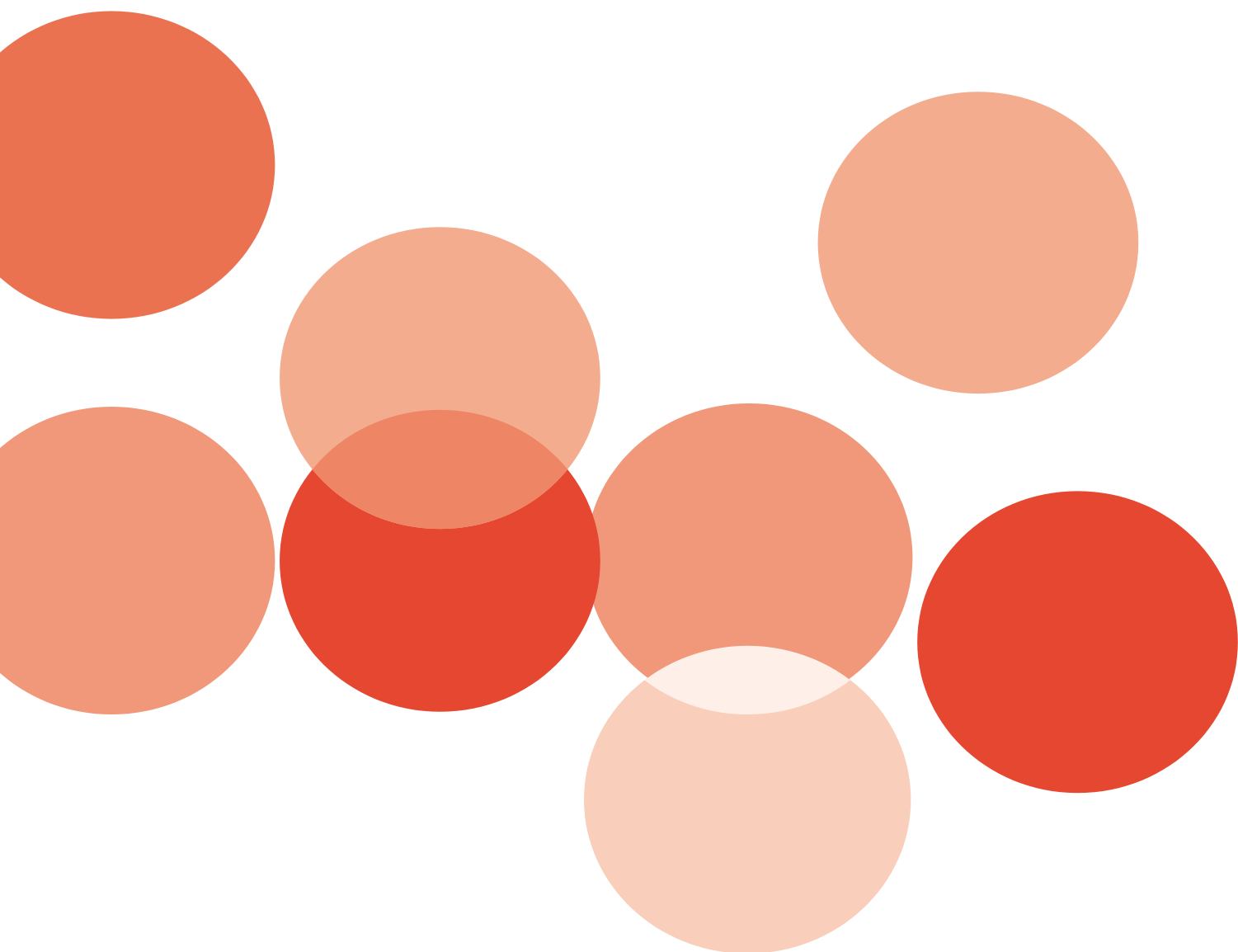


ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000

GUIDANCE NOTES

ATF (1)

(Individuals)



Introduction

This form should be used where the applicant(s) wishes to apply to the Office of the Public Guardian for authority to access funds but does not have sufficient financial information to allow them to do so.

PLEASE NOTE ATF(1) CANNOT BE USED FOR THE PURPOSE OF OBTAINING INFORMATION TO PROVIDE TO A LOCAL AUTHORITY FOR CARRYING OUT A FINANCIAL ASSESSMENT FOR CARE CONTRIBUTIONS.

If you require advice and/or assistance to complete this form please contact our office where staff will be happy to help. Applicants should also refer to the code of practice for access to funds when considering making use of this scheme.

The form should only be used when you have limited information and require to ascertain the following:

- If there are accounts in the adult's sole name,
- Is there an account suitable for the purpose of the access to funds scheme, e.g. an account which has no restrictions on access, allows the set-up of regular transfers?
- Are there sufficient funds held to meet ongoing needs/lump sum requests?
- Which accounts have funds paid into them, e.g. state or work pensions?
- Which accounts have funds paid out of them, e.g., standing orders/direct debits?

If the above information is currently available to you there is no requirement to complete this form, you should complete the application form ATF (2) Access to Funds.

Section 24C of the Adult Support and Protection (Scotland) Act 2007 covers the authority to provide information about accounts. This applies where a person believes that an adult holds funds in their sole name but cannot make an application to access funds because only limited information is known. The supply of such information is solely for the purpose of making an application under section 25 or 26G of the act.

1. Personal information

Section 1.1 - Current details of the adult

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

If you have ticked the box regarding non-intimation please refer to the Medical Certificate(s) section of these notes for further information regarding the SSI79.

Section 1.2 - Details of applicant

This is the person applying to request account information on behalf of the adult.

Section 1.3 - 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 1.4 - Details of 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 1.5 - Details of any named person, attorney, intervener or guardian

Please complete if an attorney, intervener or guardian has been appointed to deal with their welfare and/or financial needs.

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 their interests.

Section 1.6 - Details of any 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 - Existence of an account

This section should be completed when the sort code and account number are known.

Section 2.2 - Need to identify what account exists

If you are unable to provide the level of detail required in section 2.1 and you have a reasonable belief that the adult may hold accounts with certain bank/building society/financial institutions etc., please complete this section accordingly.

Section 2.3 - Indicative use of funds

We must ensure that your application is suitable and as a result require a note of the anticipated level of expenditure. One off payments or lump sums should be completed if required. Identify why you need a one off payment or lump sum for example to pay outstanding debts or purchase special items. This can also include the cost of this application which may be recovered from the estate provided it is requested.

When income is solely from the Department for Work & Pensions (DWP), these should be managed using the DWP Appointeeship scheme. If however the following conditions apply then Access to Funds (ATF) can be used:

- Receives income over and above DWP benefits, e.g. a private/occupational pension,
- Has savings above the lower capital limit,
- A lump sum is required to pay accrued expenses or debts,
- Is living in their own home and direct debits need to be or are already set up on a bank account in their sole name to pay utility bills etc. (only if direct debits cannot be set up on the appointee's account, e.g. if it is a corporate appointee account)

Section 2.4 - Additional information

Please use this section to provide further information to support your application

3. Terms of declaration

Declaration

This section contains an undertaking and declaration which must be read carefully by the applicant(s) who should then sign and date.

Data protection/use of information

The Office of the Public Guardian will retain and process the information provided herein on computer. This processing is necessary for the exercise of the statutory functions conferred by the Adults with Incapacity (Scotland) Act 2000. By signing this section consent is given to this information being processed, stored and used by the Office of the Public Guardian in the discharge of its functions.

4. Countersignatory information

This section requires to be completed by a countersignatory who must meet the criteria as set out in section 4.

The person who completes section 4 will support your application and believe that the information contained in the application is true and you can be entrusted with dealing with the financial affairs.

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 applicants and you cannot find one countersignatory who meets the criteria for all, you will require a separate countersignatory to support each applicant.

The countersignatory must declare if he or she is liable to gain financially from involvement in this application and if so they 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 within 14 days of the date of the countersignatory signing the form.

Medical certificate(s)

Medical Certificate SSI No 51 must accompany the application and should be completed by a medical practitioner before the application is countersigned.

Medical Certificate SSI No 79 only requires to be completed if you have ticked Section 1.1 as you consider a copy of the application should not be sent as it would pose a serious risk to their health. This certificate must be completed by two medical practitioners, one of whom must be a specialist under the terms of the Mental Health Care and Treatment Act. **Simply to indicate that the adult would not understand the application or would be upset by it is not sufficient grounds for non-intimation.**

Medical Certificates are valid for 6 months from the date of examination.

Registration fee

A fee is payable for this application and cheques should be made payable to the "Scottish Courts & Tribunals Service".

The registration fee may be subject to exemption. The applicant will be required to complete a Fee Exemption application and provide supporting documentation to confirm the criteria identified has been met. A note of our fees and exemption criteria is available on our website www.publicguardian-scotland.gov.uk or can be obtained by phoning the office.

Further assistance

Please use the checklist located near the end of the application form to ensure you have completed all the information required. If you require assistance please contact the Access to Funds Team on 01324 677140 where staff will be happy to help.