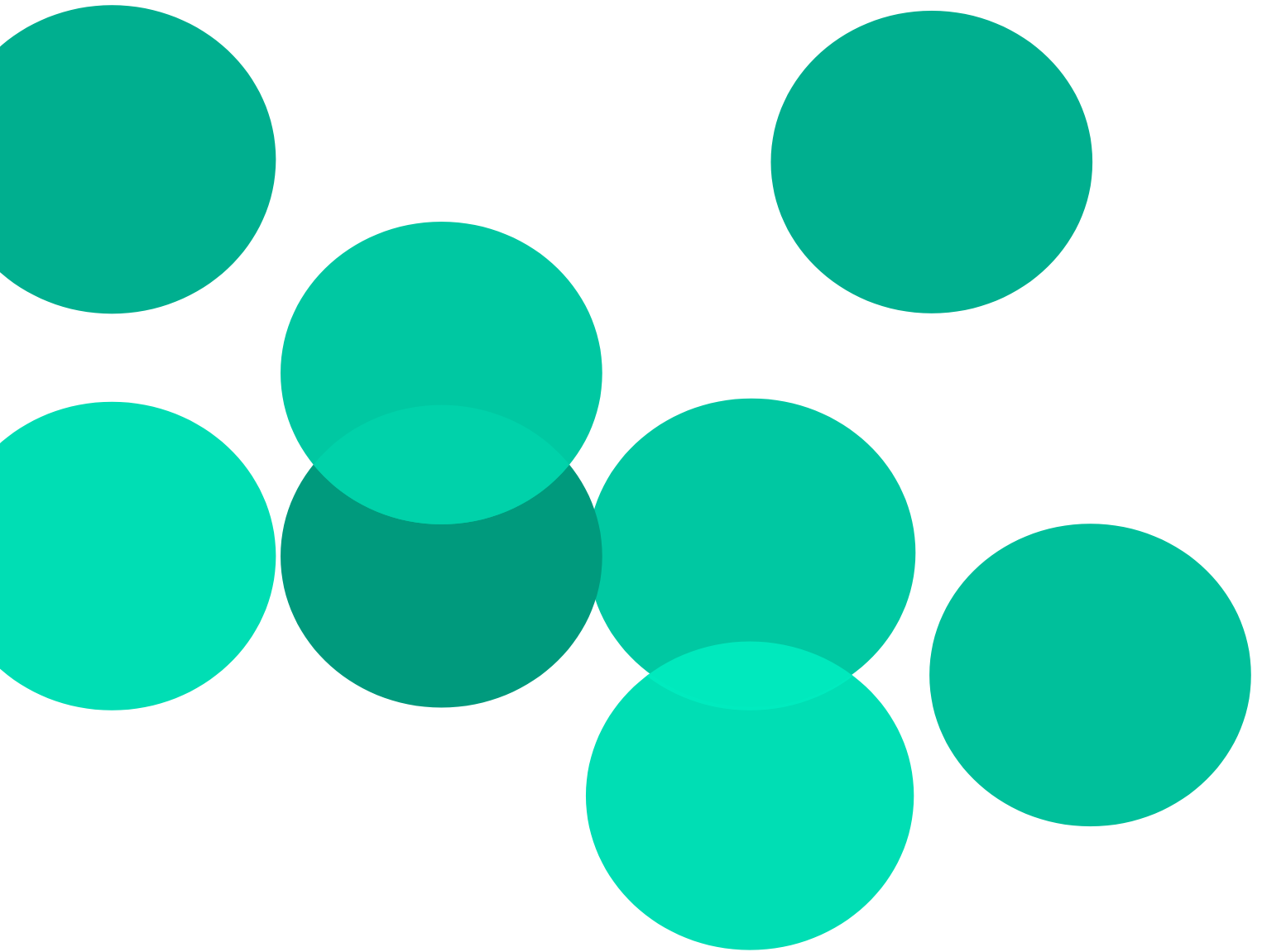


ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000

GUIDANCE NOTES ATF (2) (Individuals)



Introduction

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

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.

1. Personal information

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 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 the applicant

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

Section 1.3 - Details of reserve withdrawer

A reserve withdrawer may be identified where only one withdrawer is to be appointed. If this role is not required or identified in this application it may be applied for at a later time using form ATF(4), please note a further fee will apply.

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 they ordinarily resided with 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 the Adults with Incapacity (Scotland) Act 2000. 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 officer in charge of the ward, manager of the care home or other establishment.

Section 1.6 - Details of the named person, attorney, intervener or guardian

Please complete if the adult has a named person, attorney, intervener or guardian who has been appointed to deal with the welfare and/or financial needs of the adult.

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 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 - Department for work and pensions (DWP)

If someone is in receipt of any DWP income e.g. state pension, benefits or allowances, please tick as appropriate.

Where income is solely from DWP the least restrictive option, as per the said Act is to manage this using the DWP appointeeship scheme. However if the following applies 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)

You should also indicate the date the DWP appointee received the first payment.

Section 2.2 - Adult's existing account

If the adult has an account in his/her sole name, the details should be provided here. If a regular transfer of funds is being requested this account must be one which allows standing orders/direct debits, however if a lump sum only is being requested this does not apply.

Section 2.3 - Details of proposed new account

You should identify where you intend to open a new account if the following applies:

- The adult does not have an account in their sole name.
- A regular transfer is being requested and the existing account does not allow standing orders/direct debits.

2.4 – Second account

In addition to the current account it is possible to identify an existing account or open another account in their sole name which will be known and operated as their 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 2.5 – Transfer of funds on existing accounts

This section can be used where there are several accounts in his/her sole name you may need to close or transfer funds between. If an account is to be closed please identify the amount to be transferred as 'full balance'.

Section 2.6 - Details of direct debits/standing orders

Details of standing orders and/or direct debits already set up on the account in section 2.2 you wish to continue should be identified here or they will cease on production of the certificate of authority to the fundholder.

Details of standing orders and/or direct debits you wish to set up should be identified here.

You will not have the authority to amend a standing order set up here without first applying to this office for authority to do so. For this reason we do not recommend that a standing order is continued/set up for the payment of care costs.

Requests made in this section should not be included in section 2.7.

Section 2.7 - Use of funds

You should identify the anticipated monthly expenditure required to meet the adult's financial needs, this amount will be transferred from the current account to an account we will give authority to be opened in your name on behalf of the adult and will be called the designated account.

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.

This is requested monthly to fit in with the frequency used by most financial institutions. Please note care costs are sometimes calculated in 4-weekly periods so some adjustments may be required. If this does not suit the adult's particular needs you may wish to discuss this with staff at this office.

This section attempts to cover most of the normal monthly costs such as utility bills, mortgage or rent, council tax etc. however the heading "*other – please specify*", can be used where expenditure does not fit into a category e.g. chiropody, hairdressing etc.

With inflation and costs always on the increase you may wish to include 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 minimal. You should also consider whether there are sufficient funds available in the current account to allow this.

The following examples show how this can be done.

Example 1: If rent is payable at £100 monthly, calculated at £1,200 in year one (£100 x 12 months). You may wish add an extra 5% to take into account any increase which may occur over the three year period of authority. Therefore you would request £105 per month.

Example 2: If care costs are payable at £250 weekly this would work out at £1083.33 per month (£250 x 52 weeks divided by 12 months). You may wish to add an extra 5% to take into account any increase which may occur over the three year period of your authority, therefore you would request £1137.50 per month.

You should apply the same logic to other expenses which may be subject to future increases. Amounts requested do not need to be exact, but it is important to be sure that there will be sufficient money transferred to the designated account to meet such requests. Overestimating within reason will not be seen as detrimental, if you are unsure staff at this office will assist.

We will expect to see some form of evidence of anticipated expenditure e.g. utility bills, care home invoices, local authority financial assessment etc. We may apply a degree of flexibility in that anything which is seen to be reasonable and appropriate does not necessarily have to be evidenced. However, we reserve the right to request further information when considering an application.

The period of authority will be granted for 3 years initially however this may be reduced depending on the circumstances and can be discussed with staff at this office.

Section 2.8 - One-off lump sum

One-off lump sums may be requested where there has been a build-up of costs due while no-one has authority to access funds. The following example show how this can be done.

Example: The adult has been in a care home for four months before the application is submitted, care costs are £2,000 per month so a debt of £8,000 has accrued. It normally takes four weeks to fully process an application, thereafter you will have to open a designated account with a fundholder which may take another few weeks. We therefore suggest that you add a further 2 months of costs to the current lump sum to take into account this period, the lump sum request in this example would be approximately £12,000. Our fee for the application and the cost of obtaining the medical certificate can also be included.

Outstanding care costs	£12,000
Overpayment of attendance allowance	£250
Medical Certificate from Doctor	£100
OPG registration fee	£87
Total Lump Sum request	£12,437

We will expect to see evidence to support requests e.g. utility bills, care home invoices, receipts etc. In the example shown above, we would expect to see an invoice for the outstanding care costs; overpaid attendance allowance and the doctor's fee note. The OPG fee shown is based on our fees for 2018/2019; the current fee can be confirmed on our website.

Lump sums for items required for the adult e.g. specialist equipment, holidays, TV/radio, replacing clothing can also be made here, again evidence would be required to support such requests e.g. quotes, receipts, screen dumps of intended purchases.

If the lump sum is to be paid from another account in the adult's sole name, i.e. not the account specified in section 2.2, please tick as appropriate.

Section 2.9 - Additional information

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

3. Undertaking and declaration

This section contains an undertaking and declaration which must be read carefully by all applicant(s) and reserve, who should all sign and date here.

4. Countersignatory information

This section does not require to be completed where the information has already been supplied in form ATF(1).

The countersignatory effectively supports your application and believes that the information contained in the application is true and that you can be entrusted with dealing with the financial affairs as far as this application relates. They must read the application form and agree to its content and be satisfied that it is necessary.

The countersignatory must read the declaration thoroughly and ensure that they meet the criteria as set. **If not, they cannot act as countersignatory.**

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 joint or reserve applicant, they must fully complete a separate section 4.

The countersignatory must declare if they have a pecuniary interest in this application i.e. are they liable to gain financially from involvement and if so they must identify the nature and extent in the box provided.

The application form must be lodged within 14 days of the date the countersignatory signs 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. If an SSI51 certificate was completed as part of form ATF(1) there is no requirement to complete again for this application.

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". However, if you have already applied to obtain account information using form ATF(1) the fee will be waived. Please note that any further applications will be subject to an additional fee.

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.