

**Circular No. CCD 3/2014**

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](mailto: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 Allowance<sup>2</sup>
- Disability Living Allowance<sup>1</sup>
- Incapacity Benefit<sup>2</sup>
- Guardian's Allowance
- Industrial Injuries Benefits: Disablement Benefit  
Reduced Earnings Allowance  
Retirement Allowance  
Industrial Death Benefit
- Child Benefit
- Income Support<sup>1</sup>
- Social Fund<sup>3</sup>: Winter Fuel Payments  
Social Fund Maternity  
Funeral Expenses
- Housing Benefit<sup>1</sup>
- Council Tax Benefit<sup>3</sup>
- Carer's Allowance

- Employment and Support Allowance<sup>1</sup>
- State Pension Credit
- Universal Credit (4)
- Personal Independence Payment (4)

In the list above:

- <sup>1</sup> indicates benefits which will be replaced by the Universal Credit or Personal Independence Payment
- <sup>2</sup> 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.
- <sup>3</sup> 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.