

# Adults with Incapacity

Template policy for adult services



# Guidance on Adults with Incapacity Policy

## Purpose

There is a requirement for all care services to have policies and procedures in place which cover adults with incapacity.

We have produced this guidance for Care Inspectorate staff to help them review adult with incapacity policies/procedures.

This template is NOT a draft procedure for care services. However, it may be of help to care providers developing and reviewing their adults with incapacity policies and procedures.

This template is intended to provide general advice only on the legal requirements and best practice guidelines and does not preclude more stringent local controls being in place.

## Background

The policy should commence with the following:

The Adults with Incapacity (Scotland) Act 2000 provides a number of options whereby individuals can make decisions for a person who is incapable of doing so themselves. This can be either on a short or long-term basis.

The interventions provided are as follows:

- Power of Attorney
- Access to Funds
- Management of Funds
- Consent to Treatment
- Guardianship Orders
- Intervention Orders.

### 1. Staff training

The service provider will ensure that their staff recognise when the Act should be used or is in use, monitor interventions and seek additional information when required from the appropriate statutory body. Training should be undertaken. Provided as follows:

#### All staff -

- Powers of Attorney
- Consent to Treatment
- Guardianship Orders.

#### Managers –

All of the above and in addition:

- Part 3 – Access to Funds
- Part 4 – Management of Funds.

Updates on these areas of the act will be undertaken as the legislation changes or where audit / monitoring shows that a refresher is required.

Access to training materials, code of practice and more detailed information may be made available on the organisations intranet/on-line training resource and on the following websites:

[www.publicguardian.scotland.gov.uk](http://www.publicguardian.scotland.gov.uk)

[www.mwcscot.org.uk](http://www.mwcscot.org.uk)

[www.careinspectorate.com](http://www.careinspectorate.com)

## **2. Audit**

The manager shall keep a register of all interventions under the Act. An electronic version of a register is available from:

[http://www.careinspectorate.com/index.php?option=com\\_content&view=article&id=7952&Itemid=375](http://www.careinspectorate.com/index.php?option=com_content&view=article&id=7952&Itemid=375)

Copies of all orders and/or certificates must be kept and checked as the need arises or following review meetings for individual service users.

Audits of the register must be carried out at least annually.

## **3. Service user carer and involvement**

Service users and carers will be involved in making decisions about their:

- Wellbeing; and / or
- Finances; and / or
- Consent to Treatment.

Whether there is an intervention under the act or not, - see participation strategy and policy.

Staff must comply with the relevant Codes of Practice, and bear in mind the principles of the Act:

- Present, past wishes and feelings of the individual
- Views of nearest relative to be taken into account
- Intervention will benefit resident
- Individual encouraged to exercise whatever skills they have
- Intervention is the least restrictive.

Decisions made concerning an adult with incapacity must be recorded within the relevant part of the care plan.

## **4. Managers and senior staff**

Managers of care homes are identified within the various parts of the act as having specific responsibilities. These responsibilities are outlined within the codes of practice for each part of the Act. Managers must be familiar with these codes.

Managers also have a responsibility to ensure that accurate information is entered into the electronic annual return, for the Care Inspectorate. The AWI register referred to above will assist with this task.

### **Procedure for Adults with Incapacity**

The following procedure must be followed in order to comply with the organisations policy on Adults with Incapacity.

#### **Pre-admission/admission**

During the pre-admission or admission assessment, the assessor must enquire as to any interventions that are in place under the Adults with Incapacity (Scotland) Act 2000.

These should be recorded on the pre-admission/admission form and logged in the AWI register. Ideally copies of any intervention will be available and a copy kept for referral by staff. A copy must be kept in the adults care plan.

Where there are no interventions under the Act and it is suspected that the adult lacks capacity, then the care manager or manager of the service must arrange for an assessment to be carried out. The principles of the Act must be taken into account:

- Present, past wishes and feelings of the individual
- Views of nearest relative to be taken into account
- Intervention will benefit resident
- Individual encouraged to exercise whatever skills they have
- Intervention is the least restrictive.

The date of referral, assessment, outcome and any actions must be recorded in the adults care plan.

## Headquarters

Care Inspectorate  
Compass House  
11 Riverside Drive  
Dundee  
DD1 4NY  
Tel: 01382 207100  
Fax: 01382 207289

Website: [www.careinspectorate.com](http://www.careinspectorate.com)

Email: [enquiries@careinspectorate.com](mailto:enquiries@careinspectorate.com)

Care Inspectorate Enquiries: 0345 600 9527

This publication is available in other formats and other languages on request.

Tha am foillseachadh seo ri fhaighinn ann an cruthannan is cànan eile ma nithear iarrtas.

অনুরোধসাপেক্ষে এই প্রকাশনাটি অন্য ফরম্যাট এবং অন্যান্য ভাষায় পাওয়া যায়।

یہ اشاعت درخواست کرنے پر دیگر شکلوں اور دیگر زبانوں میں فراہم کی جاسکتی ہے۔

ਬੇਨਤੀ 'ਤੇ ਇਹ ਪ੍ਰਕਾਸ਼ਨ ਹੋਰ ਰੂਪਾਂ ਅਤੇ ਹੋਰਨਾਂ ਭਾਸ਼ਾਵਾਂ ਵਿਚ ਉਪਲਬਧ ਹੈ।

هذه الوثيقة متوفرة بلغات ونماذج أخرى عند الطلب

本出版品有其他格式和其他語言備索。

Na życzenie niniejsza publikacja dostępna jest także w innych formatach oraz językach.

