

Patients' Private Property Guidelines

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Patients' Private Property Guidelines

1.0 Policy

Introduction

The Health Service Executive (HSE) operates in excess of 15,000 Patients' Private Property Accounts (PPPA's) for clients at over 170 locations nationally.

These accounts are generally held on behalf of clients who are in long term residential care, primarily within the following services:

- Older People
- Mental Health
- Intellectual Disability
- Physical and Sensory Disability
- Acute Hospitals (long stay)

2.0 Purpose

The purpose of this document is to set out the procedure to be followed by HSE employees, or agents, in the administration of clients' patients' private property.

The following Guidelines set out the steps that must be taken to ensure that the interests of the client are protected and gives clear guidance to HSE employees in the management of clients' property in the care of the HSE.

This document provides clear guidance on the use of funds for the benefit of clients, particularly where a client may not have full capacity to manage, or to make decisions around the best use of their funds.

3.0 Scope of Application of PPP Guidelines

These Guidelines apply to all staff employed by the HSE who administer patients' private property.

These guidelines apply to all patients' private property held by the HSE under the following circumstances:

3.1 Where the HSE directly holds the client's monies for safekeeping

The relevant sections of the Health (Repayment Scheme) Act 2006 and these Guidelines apply to all patients' private property which is held in safekeeping in respect of clients in its care in its own facilities or in those of third party providers (typically private and voluntary nursing homes and similar facilities).

3.2 Where a third party provider holds the monies and the contract for care is between HSE and the provider

The relevant sections of the Health (Repayment Scheme) Act 2006 also apply to monies held for safekeeping on behalf of clients by the operators of third party facilities where the contract in respect of the care of the client is between the HSE and the provider.

This is typically in relation to voluntary residential service providers (Section 38 funded locations) and "contract" or "fully subvented beds" in private nursing homes. For the avoidance of doubt on each party's responsibilities, the detail of such arrangements should be included in the Service Level Agreement between the HSE and the third party provider.

These Guidelines are adjusted in the manner outlined when the following third party legal authority is in place over the financial affairs of a client:

3.3 Wards of Court/Enduring Power of Attorney/Court Appointed Next Friend

Where a client is a **Ward of Court** or has in place an **Enduring Power of Attorney (EPA)** then the power to make any requests in relation to funds held in safekeeping for the client rests with the Wards of Court Office or the person who has registered and activated the EPA with the High Court. A **Court Appointed Next Friend** may also have authorisation over a client's financial affairs.

In relation to **Wards of Court** you should seek direction from the Wards of Court office or from local management. The PPPA Central Unit can also advise on such cases, should management wish to refer specific cases.

In situations where an **EPA** may be in place it is necessary to confirm that the EPA has been activated and that the registered person has the proper authorisation under the EPA to make requests over the client's funds.

Court Appointed Next Friends may also have authorisation over a client's financial affairs. It will be necessary to confirm the actual authorisation in each individual case as such appointments are normally for specific purposes and would not automatically include control over a client's finances.

In all of the above scenarios, local management should refer cases to the PPPA Central Unit for any advice required.

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4.0 Legislation/Other Related Policies

Relevant Legislation, Regulations & Standards

The HSE must ensure that the operation of PPP accounts is in accordance with all legislation and regulations. The HSE operates PPP accounts under the authorisation of the Health (Repayment Scheme) Act 2006. Certain legislation, regulations and standards refer to clients at specific types of Care Centre only, such as Mental Health, Disability or Older Persons' services. All relevant staff at such Care Centres should make themselves aware of the content of this legislation and standards and the requirements they place on the HSE in the management of patients' private property. The guiding principles and decision-making process over managing client funds outlined in this document are in line with the requirements of relevant legislation, regulations & standards.

Older Persons Services

The HIQA **National Quality Standards for Residential Care Settings for Older People in Ireland** outlines standards specifically on Client Finances in such care settings. Some other standards within that document also impact on how clients' private property should be managed.

Disability Services

The HIQA **National Quality Standards: Residential Services for People with Disabilities** also outlines standards specifically on Client Finances in such care settings. Some other standards within that document also impact on how clients' private property should be managed.

Mental Health Services

Sections 62 and 63 of the Mental Health Act 2001 define Approved Centres for the purpose of the Act. A number of articles within Statutory Instrument No. 551 of 2006, issued pursuant to Section 66 of the above Act, are relevant to decisions on the management of client PPP funds and provide direction on clothing, resident's personal property and possessions, individual care plans and the provision of information.

HSE National Financial Regulations

The HSE PPP National Financial Regulations should be followed at all times in managing PPP funds. Greater detail on the accounting and other requirements around the management of PPP is provided in the PPP National Financial Regulations.

Future Legislation and Regulations

Any further legislation or regulations relevant to PPP will be circulated to all relevant staff along with a briefing on any impact on these Guidelines.

5.0 Glossary of Terms and Definitions

Definition of Patient's Private Property

A Patient's Private Property account is defined in Section 2 of the Health (Repayment Scheme) Act 2006 as:

"patient's private property account means so much of the money and personal property of-

- a) *a person provided with in-client services referred to in Section 53 of the Health Act 1970 (as amended by section 4 of the Health (Amendment) Act 2005),*
- b) *a person provided with institutional assistance under Section 54 of the Health Act 1953,*
- c) *a person in residence used wholly or partly as a setting to provide care for persons with physical or mental disability, or*
- d) *a person otherwise being cared for by, or on behalf of, the Executive due to a physical or mental disability or ill-health,*

that is managed, on behalf of that person, by the Executive or by another person under an arrangement with the Executive whether before, on or after the commencement of Section 9."

The above definition of client's private property includes personal effects such as:

- Clothing
- Footwear
- Jewellery and other small valuable items
- Luggage
- Personal items of furniture, ornaments etc
- Other personal effects

In respect of the above items, with the exception of Jewellery and other small valuable items, the primary requirement, as part of the routine care of clients and operations generally, is for HSE and its staff to seek to limit any loss or damage to clients; personal effects in so far as is practicable.

In respect of Jewellery and other small valuable items clients should be advised that such items cannot be safeguarded by HSE unless they are handed in for safekeeping to the appropriate staff. Proper records of the receipt of such valuables should be retained and all valuables should be stored in a secure area. Local procedures over the receipt and storage of valuables should be followed in all cases.

Property may also include monies or documents such as pension books that provide access to monies or facilitate the future transfer of monies to the HSE to be held in safe keeping for the client.

There is a practical requirement on the HSE and its staff being made aware of, or having knowledge of, the existence of any property in order to implement these guidelines effectively.

There is however, an onus on the HSE and its staff to make **all reasonable enquiries** on admission, and subsequently if appropriate, to establish the existence and extent of any property that a client may have brought into the facility. The HSE's formal position remains that it cannot accept responsibility for funds or other property not handed in for safekeeping to its staff.

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6.0 Roles and Responsibilities

Each Regional Director of Operations is responsible for the implementation of these Guidelines within their area of responsibility.

Each HSE employee, or agent, who deals with PPP is required to make themselves familiar with the content of these Guidelines and is responsible for their implementation within their area.

The PPP Governance Committee is responsible for the ongoing review of these Guidelines.

7.0 Guidelines

Fundamental Concepts which inform these Guidelines

7.1 General

7.1.1 Client funds held in PPPA's belong to the client and to no other person or body including the HSE. The HSE has an implied trustee relationship with its clients in respect only of those clients' PPP funds.

7.1.2 Any net interest earned on investment of PPP funds belongs to the clients and cannot be retained by the HSE. The HSE may however retain a portion of interest earned on funds invested by the PPPA Central Unit, Tullamore as provided for in Statutory Instrument No. 639 of 2007.

7.1.3 The HSE is committed to promoting the continued independence of its clients to the greatest extent practicable, consistent with the provision of safe and appropriate care. In this context clients must be encouraged and supported to make their own arrangements regarding safekeeping of their funds. However, where necessary and/or requested by or on behalf of the client the HSE offers the PPP service.

7.1.4 The HSE has a duty to be able to properly record and account for any movements in the funds held by it in safekeeping for clients.

7.1.5 This duty is an integral part of the overall care of our clients.

7.1.6 These guidelines must be read in conjunction with the HSE National Guidelines on Charges for In-Patient Services and the HSE's Financial Regulations.

7.2 Clients with capacity

7.2.1 There is a general legal presumption that an individual has the mental capacity to make their own decisions.

7.2.2 HSE must assume a person has capacity to make any given decision unless there is a strong basis to be concerned that this may not be the case.

7.2.3 HSE must not allow any client's funds in its safekeeping to be utilized for any purpose without the clear permission of the client other than where the client is unable to give that permission due to a lack of capacity – see 7.3 below.

- 7.2.4 **IF THERE IS NO REASON TO DOUBT THE CAPACITY OF THE CLIENT THEN THE GOLDEN RULE IS TO ASK THE CLIENT AND GET THEIR PERMISSION BEFORE DOING ANYTHING WITH THEIR FUNDS** – The HSE's only role is to carry out the reasonable request of the client as effectively as possible.
- 7.3 **Clients who may lack full capacity/Assessment of Clients' Capacity**
- 7.3.1 Wherever these guidelines refer to the HSE or its staff making decisions about clients' funds the implication is that the client(s) in question do **not** have the capacity to do so themselves. This is the only situation in which the HSE would make such decisions.
- 7.3.2 This complexity cannot be allowed to prevent the HSE from meeting its responsibilities to its clients which includes respecting and reinforcing their personal dignity and their freedom to determine matters relevant to them.
- 7.3.3 The HSE, in keeping with the recommendations of the Law Reform Commission, does not wish to adopt the Status based concept of capacity whereby all clients are classified as either having full capacity or not having capacity.
- 7.3.4 The HSE seeks to use the functional interpretation of capacity to the greatest extent practicable i.e. that capacity is specific to the particular act or decision at the time it is being made.
- 7.3.5 Whether a client is deemed to have capacity or not, he or she must be involved in decisions affecting them, including decisions around their funds, to the greatest extent practicable and consistent with their overall well being.
- 7.3.6 A full mental capacity assessment (MCA), such as for the purposes of wardship applications, requires the input of one or more medical practitioners preferably consultant psychiatrists/geriatricians/psycho-geriatricians.
- 7.3.7 However on a practical level, it is entirely appropriate that non-medical clinical and other staff continue to play a key role in identifying and assessing, on an ongoing basis, any clients who potentially may lack the mental capacity to make certain decisions without assistance, or at all. This is a core part of the existing duties of medical, nursing, therapy and other health service staff and relates to decisions facing clients regarding any aspect of their care and well being.
- 7.3.8 Clients' funds are by no means the most complex or critical area where HSE staff are called upon to use their professional judgement concerning the capacity of clients in the interests of protecting their clients.
- 7.4 **The HSE's responsibility where there are doubts around clients' capacity**
- 7.4.1 The HSE's sole duty, concerning the PPP funds of such clients, is to ensure their funds held by the HSE are safeguarded for their direct benefit and their benefit alone (see below regarding dependants).
- 7.4.2 The HSE has no clear legal power to hand over, without their informed consent, the funds of any client, to any other person other than where that client is a Ward of Court (WOC), or has in place an operative Enduring Power of Attorney (EPA) or has passed away.
- 7.4.3 These guidelines set out the safeguards to be applied where a doubt exists as to capacity – in practice these safeguards will protect the client and HSE staff in situations where:
- a. A doubt has been raised as to capacity of a client **OR**
 - b. A formal assessment of capacity, by a medical practitioner or other qualified professional(s) is awaited **OR**
 - c. A formal assessment has already been carried out and the client is deemed to lack the capacity to make the decision around their funds themselves.
- 7.4.4 It follows that the HSE has no clear legal power to hand over to any person, the funds of a client who lacks the capacity to give permission for that transfer.
- 7.4.5 In allowing any utilisation of PPP funds where a client does not have capacity and therefore cannot give an informed permission, the HSE must be guided by the overriding requirement that it acts in

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the clear best interests of the client and the client alone. In doing so in a transparent manner the HSE is acting within the requirement placed on it by Section 9 of the Health (Repayment Scheme) Act 2006.

- 7.4.6 For the avoidance of any doubt **the HSE cannot permit any "pooling" or "general use" of the funds of many clients for the general benefit of some clients** – each client's funds can only be used for that specific client's benefit.

7.5 Involvement of Next of Kin

- 7.5.1 The HSE will seek to involve next of kin (and other interested persons) in as much as is practical and appropriate in the care of clients including those lacking capacity. Any involvement must be in the best interest, and for the benefit, of the client and respect the client's right to privacy and confidentiality.

7.6 Appropriate Local Discretion

- 7.6.1 It is neither practical nor appropriate for the HSE to seek to be fully prescriptive in setting out guidelines concerning the administration of PPP particularly on issues impacted by the lack of capacity of clients.

- 7.6.2 The HSE supports the principle of its clinical and other staff, who deal directly on an ongoing basis with clients and their relatives/friends, in making detailed decisions about the management of PPP. Local clinical and other staff are best placed to know what may be both safe and appropriate in respect of one client and their funds while being clearly inappropriate in respect of another client.

- 7.6.3 Any such local discretion must be exercised purely on the basis of the client's best interests and their interests alone and must be within the parameters set by these guidelines, taking account of the requirements placed on the HSE in operating client PPP a/c's by the Health (Repayment Scheme) Act 2006, the Mental Health Act 2001, related Statutory Instruments and National Quality Standards.

7.7 Clients Funds Versus HSE Funds – who should pay for what?

Central to the effective administration of patients' private property is the need to clearly separate clients' funds from HSE funds. This ensures appropriate protection for both clients and staff.

In order to implement this separation we require clarity as to what clients are expected to fund from their own resources and what they can reasonably expect the HSE to provide for as part of its care obligation.

It should be noted that funds raised by the HSE from charges correctly levied on clients under relevant legislation are HSE funds and cease to be clients' funds once collected by the HSE.

Process for accessing client PPP funds for the benefit of the client

It is not possible to provide a definitive list of items that may or may not be purchased from an individual client's PPP funds. Rather, each client's ability to derive benefit from any item or service that might potentially be purchased using their PPP funds must be assessed by clinical staff in the context of his/her overall Care Plan. Each client must be assessed individually and in line with local policy.

In cases where there is an agreed defined decision by the clinical team that a client would benefit from the purchase of an item or service not deemed to be necessary for the client's care, application can be made to use the PPP funds of that client to purchase same.

To access this funding the following process must be followed:

1. There must be a documented valid reason for the benefit of the client to purchase an item or service;
2. The intervention (equipment, service, therapy etc.) must be documented as part of the client's **Care Plan** and reviewed as per the therapeutic intervention;
3. The request must be put in writing to the Director of Nursing/Unit Manager or their designate and signed off as appropriate by them; and
4. For ongoing services and therapies, an appropriate monitoring and review date must be agreed not greater than three months.

Please refer to Appendix 6, which outlines in flowchart format the steps to be taken in arriving at a decision to use client PPP funds to purchase an item or service.

The following sections provide guidance to staff in making a decision on the appropriateness of utilising client PPP funds for the benefit of clients. This should be used as a guide only and does not purport to be a definitive list of

items that may or may not be purchased from PPP funds. The overriding factor in all decisions is whether the client will benefit from the purchase of an item or service, as per their Care Plan.

It is **not** appropriate to request or utilise clients' funds for the following:

7.7.1 **Facilities Upkeep/Refurbishment /Maintenance/ Decoration** – Such costs are a matter for the HSE to fund.

7.7.2 **Ongoing In-patient Charges or Arrears of Charges** – Such charges should not be deducted from a client's PPP a/c without the authorisation of the client themselves. All charges should be funded from the client's ongoing income on which their charge has been assessed. This is of particular relevance where the HSE is not the appointed Agent to collect DSFA allowances and a key client contact is paying ongoing In-Patient charges from the client's income.

7.7.3 **Furniture/Fittings/Equipment** - It is the HSE's responsibility to fund from its own resources, the cost of necessary furniture, fittings and equipment within wards, residences, day areas etc.

*Please refer to situations, below, where it **may** be possible to use client PPP funds for their benefit in the purchase of certain items.*

7.7.4 **Medicines** – The costs of medicines required by clients are generally covered directly or indirectly (via public demand led schemes) by the HSE.

Should any issues arise in this area it is reasonable for the HSE to only cover the costs of medicines which its care professionals are satisfied are both necessary and appropriate for the care and well being of the client.

7.7.5 **Aids/Appliances** – To the extent that the HSE is satisfied that aids/appliances are required for the appropriate care of the client then it is generally a matter for the HSE to fund same, to the extent that it is in a position to do so within available resources.

*Please refer to situations, below, where it **may** be possible to use client PPP funds for their benefit in the purchase of certain items.*

7.7.6 **Nutrition Supplements/Food** – Generally for the HSE to fund.

The client may augment what HSE provides, from their own funds, additional personal items of food/nutritional supplements that the client desires, which are over and above the norm of what HSE provides and which are not considered necessary for the care of the specific client or clients in general.

7.7.7 **Personal Hygiene/Personal Grooming** - The standard hygiene items such as soap, toothbrush, toothpaste, deodorant, etc., should be provided at HSE expense.

The client may augment, from their own funds, these basic products with additional grooming products such as make-up, perfumes, aftershave, etc.

In regard to hair dressing this is normally undertaken at the client's expense.

However, appropriate local professional discretion involving the use of HSE funds must be exercised to ensure clients personal grooming, including hair, does not fall below a minimum standard consistent with their general well being.

7.7.8 **GP/Chiropody/Optical/Aural/Immunisation etc** - These services, to the extent that HSE is in a position to provide them within available resources, will normally be provided either as part of the facilities of the unit or may be accessed through the resident's medical card/GP visit card.

It will be necessary for appropriate local professional discretion, involving use of HSE funds, to be exercised in respect of the small minority of clients who are both:

- a) not eligible for a medical card and
- b) in need of additional services beyond those directly provided by the unit they reside in.

It **may** be appropriate to request or utilise clients' funds for the following:

7.7.9 **Trips/Outings/Other Social Activities** - A resident should only be liable for reasonable costs for trips/outing /other social activities (including parties etc).

Local discretion must play a significant role in relation to this area and in considering what is reasonable the following must be taken into account:

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1. It is **not** appropriate for any costs relating to HSE staff attending or facilitating such trips, outings or social activities to be borne by clients' funds;
2. Residents should only be asked to contribute to the costs of trips etc that they will be attending or are likely to attend;
3. Where a group of clients are taking part in a group activity,
 - Each client must get an equitable benefit of the money spent from their PPP a/c. PPP funds may only be spent for group activities from the PPP funds of those clients actually participating in the activity,
 - A record of clients' participation in the activity must be kept, e.g. in such a scenario, a list of those who attended the activity is recorded, so that the spending of PPP funds can be linked to participation in the activity.

Example

A family member has suggested that they would accompany John to Lourdes on a pilgrimage. Staff at the Care Centre are aware that John always liked travelling and are happy that he would benefit from such a trip and is consistent with his Care Plan. It is appropriate to fund John's expenses for this trip from his PPP funds.

In certain circumstances, the necessary and reasonable cost of a third party to accompany John on this trip could also be funded from his PPP a/c. Great care would need to be exercised in ensuring that it was necessary to provide a travelling companion and that the costs were reasonable. Such a payment must be approved by a senior manager, such as a Director of Nursing or a Senior Administrator, prior to travel.

Furniture/Enhanced Aids & Appliances for Personal Use - A client may augment, from their own funds, these basic items with additional items that the client desires which are over and above the norm of what HSE provides and which are not considered necessary for the care of the specific client or clients in general. This might include the purchase of chairs, items of bedroom furniture or enhanced aids & appliances from which the client would benefit.

Examples

*Mary is resident at an Older Person's Care Centre. She takes great pride in her appearance and uses make-up daily. It is decided that she would benefit from her own dressing table at which she could sit to apply her make up and store all of her beauty products. **It is appropriate to use the client's PPP funds to purchase this dressing table.** The dressing table is the property of the client and should not be used by others.*

*A Client at a Care Centre has insufficient storage space for his clothes. The manager decides to install fitted wardrobes in all clients' rooms. **It is not appropriate to use the client's PPP funds to pay for the fitted wardrobes.***

Mary is resident at a Long Term Care facility where she sits out every day. When living at home she used a particular armchair which she found to be very comfortable. Mary is assessed by an Occupational Therapist who decides that the existing chair provided at her Care Centre meets her needs. **In this case it is appropriate to use her PPP funds to purchase an armchair similar to the one she used at home.**

Lily is in the bed adjacent to Mary and also sits out daily. After assessment by the Occupational Therapist it is decided that she requires a special Tilt & Space chair. This chair must be purchased from HSE funds only. **Lily's PPP funds cannot be used as the chair is a requirement of her care.**

7.7.10 **Clothing** – The general position is that clothing is something which clients should provide from their own funds if for no other reason than the fact that this reinforces their personal dignity and independence. A client's tastes and needs should be considered when deciding on types of clothing to be purchased and costs incurred should be reasonable.

However, appropriate local professional discretion involving use of HSE funds must be exercised to ensure clients clothing does not fall below a minimum standard consistent with their general well being.

7.7.11 Link to Long Stay Charges assessment

There are a number of expenses that are allowable when calculating the appropriate Class 1 or Class 2 charge, hence the resident should pay for these expenses from their own funds.

The "Long Stay Charges – National Guidelines" highlights these as including: -

- Dependant adult/child (maintaining)
- Life Assurance
- Medical Insurance
- Medical Costs (including prescription costs – relates primarily to dependants)
- Rent/Mortgage Allowances
- Loans/Repayments
- Maintenance Payments
- Travel Costs
- Other Outgoings

It follows that the above items fall primarily to be dealt with by clients from their own funds.

This highlights the importance of ensuring that the administration of patient's private property and the assessment of long stay charges are appropriately co-ordinated.

7.7.12 General Saver re Eligibility

Nothing in these regulations is intended to alter the status quo or set a precedent in relation to clients who may not be eligible for the Medical Card Scheme, the GP Visit only scheme or the other various public schemes which medical card eligibility provides primary access to.

This has particular relevance in relation to clients in private nursing home care.

7.8 Assessment of Clients' Capacity

While, in general, society assumes that all adults possess both testamentary and financial capacity, the HSE has a special duty to protect the financial interests of those vulnerable adults under its care.

A formal determination of financial capacity should be part of the assessment process for entry to HSE-approved or funded extended care facilities. This will establish a baseline against which future determinations of capacity can be compared.

Assessment of clients' capacity is a normal part of the ongoing duties of HSE staff operating within the many care professions and consideration of financial capacity should form part of the ongoing monitoring of the client/client's health status within the care facility.

Assessment of clients' capacity regarding PPP funds may be necessary:

- a. where there are doubts about the general capacity of a client to manage their funds on a day to day basis,
- b. to determine the degree of support with managing PPP funds that is required by clients in this regard, or
- c. where doubts exist about the capacity of clients to give an informed consent to specific withdrawals or payments from their funds in favour of third parties (spouse/children/relatives/friends).

In the absence of a request for such an assessment, the working presumption is that the client is capable of managing their finances and should be facilitated to act as they wish even if this appears inappropriate to an external observer.

Where assessment is considered necessary as a result of requests to release clients' funds to third parties, it is important to realise that HSE's concern is for the interests of the client solely.

While the HSE is committed to working collaboratively in so far as is practical with relatives and friends it is not feasible or appropriate to seek to have all clients speedily subjected to Full Mental Capacity Assessments (MCA), where the sole driver for same is the desire for access by a third party to the funds of the client. An MCA can only be carried out by a consultant psychiatrist, geriatrician or psycho-geriatrician.

The need to protect the dignity and well being of clients, as well as obvious resource constraints, demands that the HSE only carries out assessments to the extent necessary and appropriate in the overall context of the care and well being of the client.

Where appropriate, the HSE should use generally accepted assessment tools available to it (for example MMSE – Mini Mental State Examination)

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to determine if there is a need for a full MCA. The MMSE and other generally accepted client assessment tools can be carried out by other clinical staff provided they have the appropriate training and experience. Where practical and available, it is preferable to involve the full care team in assessing the client.

It is important to bear in mind that there is no standard test of capacity, e.g. Mini-Mental State Examination (MMSE). However, the MMSE is a useful standardized assessment tool available to Care Centre staff. Staff should be aware that in interpreting the results, a normal test does not exclude impaired financial capacity and conversely, an abnormal result does not always indicate that the person lacks capacity. It is appropriate to use this tool as long as the interpretation is based on a general global impression of the client.

If there are any concerns of coercion by a third party or that tests are being requested without the client's best interest being uppermost, then the case should be referred to the HSE's Elder Abuse Service.

7.9 Application to the Circuit Court for Direction on using Client PPP Funds

Introduction

Section 9 (2) (c) of the Health (Repayment Scheme) Act 2006, below, allows the HSE to seek direction of the Circuit Court as to how it may use any money of a PPP account holder in excess of €5,000 for the benefit of that client.

"The Executive

(c) may, in respect of the patient's private property accounts of all or some of the account holders residing in the same hospital or other institution, make an application, not more than once in each calendar year, to a judge of the Circuit Court in whose circuit the hospital or institution, as the case may be, is situated, for directions as to how the executive may use any money in excess of €5,000 or the amount prescribed in regulations made under Section 20 (1)(c), whichever is the greater, in any of those accounts for the benefit of the account holder in whose patient's private property account the excess is lodged."

HSE Policy

It is HSE policy that the direction of the Circuit Court be sought in all cases where the HSE uses in excess of €5,000 (or the amount prescribed in regulations made under Section 20 (1) (c)) in client funds for the benefit of the client in a calendar year, except in exceptional circumstances, and after senior management approval, as outlined below.

Care Centre staff must monitor planned spending from clients' PPP a/c's who lack capacity to manage their own funds to ensure that relevant planned high value purchases are identified in time to allow application to the Circuit Court. The initial decision to spend such funds will have been made after review of the client's Care Plan where it will have been decided by a multi-disciplinary team that such spending will be for the benefit of the client.

Exceptional Circumstances

In exceptional circumstances, Court direction may be replaced by the authorisation of the relevant Regional Director for Operations, on receipt of a recommendation from the Local Health Manager within whose area the relevant client is resident. Any such recommendation must be reviewed by the Manager of the PPPA Central Unit before being forwarded to the Regional Director for Operations to ensure that all technical issues with such an application are in order.

Please note that it is expected that in the vast majority of cases, the use of client funds in excess of €5,000 will require the direction of the Circuit Court. Care Centres should contact to PPPA Central Unit to discuss the detail of individual cases before commencing the process of seeking the direction of the Circuit Court.

Key Features

The prescribed €5,000 threshold:

- **Only applies** where the HSE is using its powers under the 2006 Act to use a client's funds for their benefit where the client **does not** have the capacity to make that decision themselves, and funds in excess of €5,000 will be used for the client's benefit in that calendar year;

- **Does not apply** where the client has the capacity to manage their own funds, in which case the HSE will not be making such decisions. In such cases, the client must approve all spending from his/her PPP account before the HSE will provide funds from that client's PPP a/c;
- **Does not apply** to small value spending by clients who have capacity to make decisions around such spending but may not have capacity to decide on larger value purchases. In such cases, only the larger value purchases should be included in the calculation of the €5,000 limit;
- **Does not apply** to committees of a Ward of Court, Court Appointed Next Friends or Attorneys acting under an activated Enduring Power of Attorney, providing they are acting within the terms of their appointments (must be confirmed in individual cases);
- **Excludes** Long Stay charges deducted on the client's behalf by the HSE;
- Is in respect of a **calendar year**; and
- **Must not** in any way be seen as a ceiling that influences decisions over the use of client funds for their benefit. Any concerns about the practical issues associated with making Circuit Court applications must be treated as a matter entirely separate to determining the extent to which relevant clients would benefit from the HSE arranging for their PPP funds to be utilised.

Circuit Court Application Process

The preparation of applications to the Circuit Court is dictated by the Circuit Court Rules outlined in Statutory Instrument No. 446 of 2007. A **Flow Chart** attached in **Appendix 6**:

- Outlines the key stages in preparing such an application,
- Identifies who should undertake each stage, and
- Provides a list of documents required.

This application process is a legal requirement, as per the Statutory Instrument, and must be fulfilled before an application can be submitted to the Circuit Court. A detailed explanation of the Circuit

Court Rules is available within the separate **Circuit Court Rules Procedure** document, available from the PPPA Central Unit, Tullamore. The handling of submissions to the Circuit Court will be managed at Regional level.

7.10 Withdrawal/Payment of monies from Patients' Private Property Accounts in favour of 3rd Parties

For the purposes of these guidelines third party payments relate to requests to pay over clients' funds to someone other than the client.

It is under this heading that requests for access to clients' funds by spouses/children/dependants/relatives/friends etc are dealt with.

A procedure for such payments is set out at Appendix 1 which covers:

- a. Payments to third parties and
- b. Reimbursement to third parties on production of receipts for items purchased for the direct benefit of the client.

Templates for each of the above are attached at Appendix 2 and Appendix 3.

Where there is no doubt about the capacity of the client to make the necessary decision then third party payments present little difficulty for HSE and its staff. All such requests must be requested and approved by the client.

Where a client is a Ward of Court, has in place an Enduring Power of Attorney (EPA) or is a Court Appointed Next Friend, then the power to approve any requests in relation to funds held in safekeeping for the client rests with the Wards of Court Office/Committee of the Ward or **may** rest with the person who has registered and activated the EPA with the High Court or a Court Appointed Next Friend.

7.11 Funds and other Property of Deceased Clients

- 7.11.1 Funds of a deceased client should be passed to the client's **Legal Personal Representative** for them to administer the estate of the deceased faithfully according to law.

Legal Personal Representatives may be:

a. **Executors**

appointed within a will – they become responsible for the client's assets immediately upon death – their function is to obtain a "grant of probate to the estate (all savings and property)", from the Probate Office in Dublin or a District Probate Registry outside Dublin, and to administer the estate.

b. **Administrators**

may be appointed by the Probate Office in Dublin or a District Probate Registry (outside Dublin) where no will has been made by the deceased i.e. **the person has died "intestate"** – do not become responsible until appointed by means of a "grant of representation" – their function is to obtain "a grant of administration/letters of administration intestate" and to administer the estate.

For the purposes of these Guidelines, the term "Legal Personal Representative" (LPR) embodies both executors and administrators as well as those who are entitled to apply for a grant of administration.

In the ideal situation all clients would have made a will and the HSE would be made aware of same and of details of the Executor(s) and Solicitors acting for same.

In so far as is appropriate and feasible in the context of ensuring the overall care and well being of the client, the HSE should seek to establish whether clients have made a will and who the Executor(s) and solicitor for same is.

If this information is not available to the HSE at the time of death then all reasonable enquiries to relatives, friends and others, as appropriate, to the extent that they can be established by the HSE, should be made.

7.11.2 Release of PPP Funds to the Legal Personal Representative

In deciding who is entitled to act as the Legal Personal Representative, staff should refer to the **Deceased Clients Procedure Flow Chart**, which will provide guidance and key information on how to manage each individual case.

Staff should trace the flow chart from the 'Start Here' box and follow the relevant directional arrows between the decision boxes, depending on the particular circumstances. In difficult cases where the flow chart does not provide the necessary direction, staff should firstly raise the issue with local management, who may decide to refer the case to the PPPA Central Unit for advice.

The key issue for staff to consider is that the HSE is seeking to establish who is best entitled to act as LPR, rather than who is entitled to inherit the funds.

7.11.3 Release of Funds where no Executors or Administrators are appointed

Where, having made all reasonable enquires¹, HSE is advised that there is no will and no intention to seek the formal appointment of an administrator, the HSE may pay out client funds in certain circumstances where the balance held is no more than €50,000 provided:

- The requirements of the **Deceased Clients Flow Chart** (Appendix 6) are followed;
- The HSE has no valid reason to believe that the person wishing to act as LPR is not entitled to do so and that we are not aware of any dispute or potential dispute over the inheritance or a person's right to act as LPR.
- Written confirmation of their right to act as LPR and of their intention to distribute the assets as per law is provided by the Legal Personal Representative by fully completing the **HSE Declaration and Deed of Indemnity** form. (Appendix 6).

In cases where the above requirements are not met, staff should refer such cases to local management, who may forward same to the PPPA Central Unit to manage on their behalf.

Standard letters to accompany the **Deceased Clients Flow Chart** are provided for staff to assist them in corresponding with family and LPRs during this process.

¹ All reasonable enquiries includes written communication with any individuals known by the HSE who may have information as to the existence of next of kin including any persons mentioned in the client's files, other regular visitors of the client, CWO services where appropriate.

7.11.4 Funeral Expenses

It is important that each unit/residential location take as proactive an approach as possible, consistent with the overall care and wellbeing of the client, in assisting clients/their families to prepare funeral arrangements in advance so that the necessary arrangements can be made when the time comes and any distress for relatives and friends associated with same can be minimised.

Each unit/residential location should ensure that:

- It takes the necessary steps to update its client files so that details of next of kin are readily to hand;
- If necessary, each location should review the extent and quality of next of kin information available to it on client files and take whatever steps are practical to address any possible gaps in same;
- On admission or as soon as practical thereafter full particulars of all next of kin should be obtained;
- Where appropriate, client's wishes around arrangements for their funerals should be established; and
- Clients with appropriate capacity who have not made a will to date should be encouraged to do so. This is, of course, a decision entirely for the client themselves and some clients may decide not to do so.

A - Managing claims for funeral expenses

When deciding how to manage claims for the payment of funeral expenses, HSE staff should refer to the **Funeral Expenses Flow Chart** (Appendix 5) for advice on the procedure to follow.

Again, Staff should trace the flow chart from the 'Start Here' box and follow the relevant directional arrows between the decision boxes, depending on the particular circumstances. In difficult cases, where the flow chart does not provide the necessary direction, staff should firstly raise the issue with local management, who may decide to refer the case to the PPPA Central Unit for advice.

B – Where funeral arrangements are dealt with by relatives/friends

The HSE preference is, for all clients who die while in care, to have their funeral arrangements carried out in accordance with their own wishes and for the necessary arrangements to be handled by relatives/friends as dictated by the client.

Clients' funds can be released to the LPR to enable them, amongst other things, to retrospectively meet allowable funeral expenses.

Once funds have been released to the LPR it is then a matter for them to make any decisions as appropriate around usage of those funds including to discharge any funeral expenses.

It is also acceptable for HSE to pay the bill(s) associated with the funeral arrangements (from the deceased's PPPA) provided they are reasonable and that the relevant manager is satisfied that the costs have been appropriately incurred and there are sufficient funds in the clients account to cover same. In such circumstances you should refer to the definition of Allowable Funeral Expenses included on the **Funeral Expenses Flow Chart**.

In cases where relatives incur extra costs associated with a funeral, they should be advised that they should seek to recoup same subsequently from the LPR. The main purpose of this provision is to protect the HSE from instances where potential beneficiaries to a deceased persons estate may, subsequent to the funeral, take issue with the extent of the client's funds that have been used up in paying for same.

C – Where, in exceptional cases, HSE makes the necessary funeral arrangements

Where clients have not or are unable to make their wishes known and/or there are no available legal personal representatives/relatives/friends to make the necessary arrangements, then in exceptional cases HSE may have to make the necessary funeral arrangements.

Where HSE makes the funeral arrangements then the cost of same is to be charged on the client's funds held in their patient's private property account. Again, the **Funeral Expenses Flow Chart** should be followed to provide guidance to staff in managing such cases.

Patients' Private Property Guidelines

If there are insufficient funds in the specific client's account, then any balance of cost must be charged against the funds of the HSE itself – there can be no charging against “general clients' funds” – options to recoup any balance of cost can subsequently be followed up i.e. in terms of grants from Department of Social Welfare and/or recoupment from any balance of the client's estate which may be held outside of the patient's private property account.

7.11.5 Monies Outstanding to HSE

It is not appropriate for HSE to unilaterally deduct monies owed to it from client's funds following the death of the client.

Any such monies fall to be dealt with by agreement with the Executors or Administrators where same are appointed or by consultation with appropriate Legal Personal Representative prior to any decision to make payments in the absence of legally appointed executor(s) or administrators(s).

Agreement should be reached regarding outstanding monies due to HSE before any balance held on client's funds is paid over.

7.11.6 Property other than monies

Legal Personal Representatives are the appropriate persons to make decisions around the personal effects including clothing, jewellery and other items that are the property of deceased clients. Items of furniture or equipment etc. purchased from clients' PPP funds should also be advised to the LPR so that they can decide on their disposal.

A receipt must always be obtained from the LPR to provide evidence for the HSE that the personal items were handed over to the correct person.

Bank/Credit Union/Post Office books should also be forwarded to the LPR after the return of a completed Declaration & Deed of Indemnity Form. A record of the balances noted in such books should be retained and a receipt must also be retained, outlining the number of books, the Financial Institution and the balance amount noted. (It must be remembered that the actual balance might be different from that noted in such books.) It will then be a matter for the LPR to establish his/her entitlement to receive any funds held by the Financial Institution with that Institution directly.

7.12 Availability of Information on PPP Activity

Introduction

Care Centre staff receive ongoing requests for information on individual client PPP a/c balances and transactions from clients themselves and also from third parties, including spouses, children, parents, siblings and more distant relatives.

Clients Capable of Managing their own Financial Affairs

In cases where a client is capable of managing their own financial affairs, information on any aspect of their PPP a/c will **only** be provided to the client themselves or to a person nominated in writing by the client to receive such information. Clients should be provided with ongoing information on their PPP balances and transactions.

Any third parties requesting information on client PPP a/c activity in such cases should be advised that this information is private and confidential to the client and that the HSE cannot release same to them without the express permission of the client.

Clients not Capable of Managing their own Financial Affairs

In general, all client financial information is private and confidential to the client themselves, irrespective of whether the client is cognitively impaired or not. Third parties, even when close relatives, do not have a general right to access information on client' PPP activity or balances, even when a client is cognitively impaired.

There are, however, a number of circumstances where a third party will have a legal authority over the financial affairs of the client and may be entitled to information.

There are also a number of limited circumstances where the HSE may provide some financial information to a third-party, when provided for the benefit, and in the best interest, of the client. In such circumstances the HSE must be in a position to demonstrate that the release of this limited information in such circumstances is justifiable, valid and in the legitimate interest of the relevant client.

Legal Authority

In cases where a client has an **Enduring Power of Attorney** in place which **may** grant the appointed Attorney access to the client's financial information. A certified copy of the EPA should be sought and the extent of the authority should then be established before any client information is provided.

A **Court Appointed Next Friend** **may** also have a right to access information on a client's PPP account. Again the exact nature of the authority granted to the next friend must be established in each individual case before information is provided.

Information on the balance in a client's PPP a/c can also be provided to a person for the purpose of them making a **Wardship application** to the Office of the Wards of Court. The release of information in such cases should only occur on foot of a formal request from the Solicitor acting on the instructions of the proposed Committee.

Other Limited Circumstances

There are a number of **limited circumstances** where the HSE may issue PPP a/c information to third parties. Any decision to release information in these limited circumstances must always be for the benefit of the client and in their best interest:

- To the person(s) acting as **Key Client Contact**, and nominated as such by the client on admission, who was at that time not cognitively impaired. All clients being admitted should be asked to provide this information, if they so wish, on the attached **Key Client Contact Nomination Form** (Appendix 7). You will note that there is no requirement on clients to nominate such a person;
- To the partner, parent, child or other family member of the client when that person is acting as the **Key Client Contact** where the client was cognitively impaired on admission. Such information should be released only to allow the **Key Client Contact** assist the HSE to manage the PPP funds of the client in the best interest of the client, as provided for in the Health (Repayment Scheme) Act 2006.

In the latter situation, above, the decision to provide limited information to the Key Client Contact should be made by the Director of Nursing or Care Centre Manager at the relevant Care Centre and should be recorded on the client's file.

Note

Key Client Contact is the person who is recorded as such on the client's file and/or who normally liaises with HSE staff on the care of the client. It is possible that there may be more than one Key Client Contact.

Deceased Clients

The PPP a/c balance of a deceased client may be released to the Legal Personal Representative, or solicitor acting on behalf of such a person, to allow them deal with the proper distribution of the assets of the deceased client. Any queries from other persons on PPP balances or activity in the account of a deceased client should be referred to the LPR for them to deal with.

Requests for Information under FOI & Data Protection Legislation

Nothing in this document alters existing arrangements and procedures in place to deal with requests for information under the Freedom of Information Act or the Data Protection Act. Any queries under FOI or the Data Protection Act should continue to be dealt with in the normal manner, following existing HSE procedures.

Please Note

If there are any concerns of coercion by a third party or that information is being requested without the client's best interest being uppermost, then the case should be referred to the HSE's Elder Abuse Service.

7.13 Complaints and Appeals

Complaints about any aspect of the service provided by HSE staff as part of the administration of Patients' Private Property are subject to the HSE **Your Service Your Say Comments, Compliments and Complaints** process.

A complaint can be made using any of the following media:

- Talk to any member of HSE staff, service manager or **Complaint Officers**;
- Fill in the '**Your Service Your Say, Information on how to make Comments, Compliments and Complaints**' leaflet and place it in the feedback boxes provided;
- E-mail yoursay@hse.ie with your feedback;
- Send a letter or fax to **any HSE location**;
- Ring us: **1890 73 73 43** where your call will be answered by a staff member from consumer affairs; or
- Contact an **advocacy service**.

7.14 Support for Staff in making decisions in difficult cases/ Interpretation of PPP Guidelines

Staff should consult with Line Managers in the first instance. Where Service Managers/Administrators have difficulty in deciding or clarifying a matter, they can escalate it to the designated PPP Liaison Person for their LHO Area/Hospitals Group for advice, who in turn can refer issues to the PPPA Central Unit, Tullamore.

All requests for external legal advice should be channelled through the PPPA Central Unit, who will arrange same for Care Centres.

Staff can also access information on PPP on the PPPA Central Unit HE Intranet site:

http://hsenet.hse.ie/HSE_Central/Integrated_Services/PCCC/Patient_Private_Property_Central_Unit/

Information on PPP for clients and their families is also available on the PPP pages of the HSE Website:

<http://www.hse.ie>

8.0 Revision and Audit

These Guidelines will be reviewed in May 2012 by the PPP National Governance Committee. Any changes deemed necessary at that time will be recommended to the HSE Senior Management Team for approval.

Any changes or updates required in the interim will also be recommended by the PPP Governance Committee to the HSE Senior Management Team for approval. Ongoing audit and review of these Guidelines will be undertaken by the PPP Governance Committee and the PPPA Central Unit, Tullamore.

9.0 Appendices

Appendix 1 – Third Party Withdrawals Procedure for Withdrawal/Payment of monies from Patients Private Property Accounts in favour of Third Parties

Introduction

This procedure sets out the controls necessary to protect the monies of clients held in safekeeping, and administered on the client's behalf, by the Health Service Executive (HSE).

It deals with the receipt and approval of requests for withdrawals/payments from clients' private property in favour of third parties where the client has sufficient mental capacity to make the decision around their funds held in safekeeping by HSE.

The withdrawals/payments referred to are where the HSE is being asked to pay over monies to a third party including to a client's spouse/child/dependant/relative/friend or other person.

It also deals with the reimbursement of receipts furnished by third parties of clients with diminished capacity in respect of personal effects provided directly for the benefit of clients.

Other than the reimbursement of receipts, it does not permit the withdrawal and payment to third parties of funds from the accounts of clients who lack the capacity to give informed consent to such withdrawal.

The only exception is where there is an Enduring Power of Attorney in operation or the client is a Ward of Court.

The purpose of this financial procedure is to enable the HSE and its staff and agents to demonstrate that we have complied in an appropriate way with our obligations in respect of clients' monies and to provide a degree of assurance in this regard to:

- Clients
- Client's family, next of kin and other concerned parties
- The HSE
- HSE Staff and agents
- Any other relevant parties

Existing Controls/Policies & Standard Movements of Clients Funds

This procedure does not apply to ordinary movements on patients' private property accounts for the direct use of client's funds by the client or with assistance of HSE staff.

The controls set out in this document should be applied in addition to existing controls which deal with the receipt and security of client's private property from admission onwards.

Such existing controls/policies already deal with the normal day to day movements in client's funds including in respect of the provision of client's comforts, shop money, client's petty cash etc.

They also already deal with issues around safekeeping of non money items.

Responsibilities

It is a matter for the relevant managers including consultants and other clinical managers to ensure that they are aware of and comply with their responsibilities under this procedure.

It is a matter for each relevant staff member to comply with this regulation as directed by their manager.

Withdrawal/Payment in Favour of Third Party

Process Steps:

Step 1: Complete Patient Private Property Account Withdrawal Form (Attached as [Appendix 3](#))

Upon receipt of a request from a client, or on their behalf, for a payment to be made to a third party, by HSE out of funds held in safekeeping, the initial requirement is to ensure a Client Private Property Account Withdrawal Form is completed.

This form should be filled in by or on behalf of the client.

If necessary, HSE staff can assist in completing the form.

Patients' Private Property Guidelines

Appendix 1 – Third Party Withdrawals

Where a member of HSE staff assists in filling in the form with the client, at least one other HSE staff member **must** be present.

The form **must not be signed** by the client until a HSE staff member is present and witnesses the signing of the form by the client.

Staff members signing as witnesses are solely confirming that the client signed the form in their presence and did so without any apparent undue influence.

Staff members signing as witnesses are not in any way confirming anything in their professional capacity or otherwise as regards the clients understanding of the form or their mental capacity around same.

Step 2: The Patient Private Property Account Withdrawal Form must be approved

The Patient Private Property Account Withdrawal Form must be approved by **two** HSE senior staff members who **may or may not include** the same staff member(s) who has witnessed the signing of the form by the client.

The relevant LHO Manager, upon notification to the relevant Assistant National Director of Finance can nominate additional grades of staff for the purpose of approving the withdrawal form however staff **at or above** the following grades are authorised to approve these forms:

- Clinical Nurse Manager
- Public Health Nurse
- Senior House Officer
- Senior Social Worker
- Senior Therapy Grade
- Grade 5 Clerical/Administrative

Before approving the withdrawal form the two senior staff members must:

- a. Have checked or be familiar with the clients recent medical history and records and
- b. Be familiar with the client's care or have consulted relevant clinical staff who are familiar with the client's care and
- c. Read the request form back to the client and seek his/her confirmation that he/she understands the withdrawal form and that the details are correct.

In approving the withdrawal form the two senior HSE staff are recording the following, bearing in mind the need to comply with a) to c) above:

1. Whether to the best of their knowledge the client is the subject of an operative Enduring Power of Attorney or is a Ward of Court? – **the withdrawal/payment should only be approved if the answer to this is NO**
2. Whether, based on their professional relationship with the client, they have any reason to doubt the client's capacity to give informed consent to the third party withdrawal/payment.– **the withdrawal/payment should only be approved if the answer to this is NO**

The two staff approving the withdrawal form must do so at the same time.

Step 3 [A] – Processing of Withdrawal Form if approved

Once the withdrawal form is approved by both senior staff the following distribution should take place:

1. Original to be forwarded to clients accounts office or equivalent for processing
2. First copy to be retained on file at ward.
3. Second copy to client.

It should be noted that once the withdrawal form is approved the primary objective is to carry out the wishes of the client in an efficient manner while complying with best practice financial controls.

Step 3 [B] – Necessary actions if request not approved

In effect what follows is an iterative process with HSE seeking to deal sensitively with the wishes of clients and their relatives/friends. HSE must do this while complying with our obligation to protect the funds of clients who lack capacity to give informed consent to the withdrawal request, for the benefit of the client and the client alone.

If either of the two senior staff feel it is not appropriate to approve the request because of their concerns over the client's capacity then it is not possible to process a withdrawal. Discussion with the clients/their relatives/friends at that stage may lead to the matter being resolved by means of the "Reimbursement of Receipts" process

Appendix 1 – Third Party Withdrawals

Note

Further assessment of the client is required if there is a desire to continue with the withdrawal process.

Where practical, non-medical clinical staff with appropriate training and experience may be in a position to carry out an assessment using one of the various client assessment tools in general use such as the MMSE (Mini Mental State Examination).

Such an assessment, while not a formal Mental Capacity Assessment, may be sufficient to confirm a genuine doubt as to the clients capacity to give informed consent or may remove that doubt in the mind of the senior staff being requested to approve the withdrawal.

Where such non-medical assessment confirms that there is good reason to doubt the clients capacity to give informed consent to the withdrawal then it is not possible to process the withdrawal.

Further discussion with the client/their relatives/friends at that stage may lead to the matter being resolved by means of the "Reimbursement of Receipts" process.

A full Mental Capacity Assessment (MCA) of the client is required if there is a desire to continue with the withdrawal process.

A MCA can only be carried out by a:

- Consultant Psychiatrist
- Consultant Geriatrician
- Consultant Psycho-Geriatrician

In the event that the MCA confirms that the client has the capacity to give consent to the withdrawal then the withdrawal can be approved and processed in accordance with Step 3 A above.

If the MCA determines that the client cannot give consent to the withdrawal then HSE cannot process same and that is the end of the process from HSE perspective.

At this stage the "Reimbursement of Receipts" process should again be discussed with the client and their relatives/friends.

It is a matter for client's relatives or friends to pursue whatever course of action they deem appropriate themselves at this stage.

HSE does not have a legal power to act to pay over a client's funds where it has been determined that the client lacks the capacity to give informed consent to same.

This applies to any persons including a spouse or children whether dependents or not.

If there are any other reasons for not approving the request, other than a concern over capacity, then the two senior staff should seek the direction of the Director of Nursing / Medical Director / Manager / Administrator as appropriate.

The client and his next of kin should be appropriately informed at all stages of this process.

Private Nursing Homes

The above requirements are amended as follows where clients are not being cared for in HSE facilities i.e. are in private nursing homes or other externally provided facilities:

1. The nursing home must arrange for a members of its staff to **witness the signing** of the withdrawal form by the client
2. The nursing home must arrange for its senior nurse and its manager to **approve** the withdrawal form.

Where the nursing home staff approving the withdrawal forms have reason for concern as to the capacity of the client to make the request they should contact HSE with a view to arranging for assessment of the client.

3. Re-imburement of Receipts Process

This is a practical alternative to processing lump sum payments from a client's funds to a third party.

It is considered appropriate for HSE to ensure clients can benefit from their funds to the greatest extent practical and consistent with their care and general well being.

Where there is a doubt around a client's capacity to manage their own funds it is recommended that

relatives/friends who wish to purchase items for the benefit of clients do so following discussion with relevant HSE nursing or other staff involved in the management of the care of the client.

Where items of genuine benefit to clients are purchased in good faith by their relatives/friends then on completion and approval of the relevant form (attached at [Appendix 4](#)) the costs of same can be reimbursed to the relatives/friends.

Appropriate local professional discretion must be exercised in deciding what can be considered to be for the benefit of clients and to avoid any inappropriate reimbursements.

Receipts must be provided and must be reviewed and attached to reimbursement request forms.

Reimbursement forms can be approved by any one of the senior staff listed at Step 2 above and again further staff can be authorised to approve reimbursements as indicated therein.

4. Wards of Court/Enduring Power of Attorney (EPA)

Withdrawals or Reimbursements must be approved in advance by the Wards of Court Office/Committee of the Ward or by the Attorney appointed by an EPA once it has been formally registered and is operative.

Appendix 2 – Withdrawal/Payment Form P10

Third Party Withdrawal/Payment from Patient's Private Property Account



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

FORM # P10

HSE AREA: _____

Appendix 2-

3rd Withdrawal/ Payment from Patient's Private Property Account Form

PART A – To be completed for Patient and Signed by Patient and Witness.

1. Hospital/Home Details

Hospital / Home Name: _____ Address: _____

Ward / Unit Name: _____

2. Patient Details

First Name: _____ Surname: _____

Date of Birth: _____ PPS No: _____

3. Request Details

Amount Requested € _____ Date: _____

4. Payee Details

First Name: _____ Surname: _____

Relationship: _____ Bank Name: _____

National Sort Code: _____ Account Number: _____

Bank Address: _____

Signed (Patient): _____ Date: _____
(In presence of witness)

Witnessed by: _____ Grade / Title: _____

Date: _____
(Staff member - In signing you are solely confirming that the form was signed in your presence by the patient)

Continued overleaf.....

3rd Party Withdrawal / Payment from Patients Private Property Account Form

PART B ; to be completed by two Authorised officers.

| | | | |
|---|--|-----|----|
| For Official Use Only | | | |
| <i>Please complete this form and tick the appropriate box:</i> | | | |
| Today's Date: _____ | Chart / Medical Record No: _____ | | |
| <p>In the case of each of the questions below it is a requirement that the staff completing this part of the form:</p> <p>a) Have checked or are familiar with the patient's recent medical history and records and</p> <p>b) Are familiar with the Patients care or have consulted relevant clinical staff who are familiar with the patients care and</p> <p>c) Have read the form back to the patient to seek his / her conformation that he understands the withdrawal form and that the details are correct.</p> | | | |
| 1 | Is the patient/client, to your knowledge, the subject of an operative Enduring Power of Attorney or are they a Ward of Court | | |
| | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="padding: 2px 10px;">Yes</td> <td style="padding: 2px 10px;">No</td> </tr> </table> | Yes | No |
| Yes | No | | |
| 2 | Do you, from your professional relationship with the patient, have any reason to doubt this patient's ability to give informed consent to this withdrawal / payment to a 3 rd party ? | | |
| | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="padding: 2px 10px;">Yes</td> <td style="padding: 2px 10px;">No</td> </tr> </table> | Yes | No |
| Yes | No | | |
| <p>THIS FORM SHOULD ONLY BE APPROVED IF BOTH STAFF MEMBERS SIGNING IT CAN ANSWER "NO" TO BOTH QUESTIONS AT 1 AND 2 ABOVE.</p> | | | |
| Sign: _____ HSE Senior Staff Member ** | Sign: _____ HSE Senior Staff Member ** | | |
| Grade: _____ | Grade: _____ | | |
| Print Name: _____ | Print Name: _____ | | |
| Date: _____ | Date: _____ | | |
| <p><i>For a full list of Authorised Officers, see Interim Guidelines, Appendix 2</i></p> <p>**At least one of the 2 staff approving this form must be a clinical staff member</p> | | | |

PART C – Official Use only; to be completed by Patients Accounts/PPP administration

| | |
|--|--|
| For Official Use Only – PatientsAccounts/ PatientsPrivate Property Administration | |
| PPPA Number: _____ Date: _____ Review by: _____ Cash – Receipt Confirmed by: _____ Date: _____ | Processed by: _____ Cheque / EFT Number: _____ Cheque / EFT Date: _____ Date: _____ |

Appendix 3 – FORM P20

Reimbursement to 3rd Parties for costs incurred for direct benefit of Clients

FORM ; P20

HSE AREA: _____

1 - Patient Details

First Name: _____ Surname: _____
Date of Birth: _____ PPS No: _____
Hospital / Home Name: _____ Hospital Address: _____

2 - Reimbursement Details

Amount spent € _____ Date: _____
Brief description of goods purchased _____

4 - Payee Details

First Name: _____ Surname: _____ Payee
Relationship: _____ Payee Address: _____

Bank Name: _____ National Sort Code: _____
Bank Address: _____ Account Number: _____

Claimant - I certify that the details given are correct and that the goods purchased are for the benefit of and have been passed on to the patient

Signed: _____ Date: _____

Signed (HSE): _____ **Date:** _____

For Official Use on Patients Accounts / Patients Private Property

PPPA number: _____
Patient / Chart / Hospital Number (if different) _____
Cheque / EFT Number: _____ Cheque / EFT Date: _____
Cheque / EFT Amount: € _____
Cash Amount (low values only if at all – suggest €50 or less max): € _____
Cash Receipt Confirmed by: _____ (Claimants must provide a receipt / confirm receipt of any cash re-imburements)
Processed by: _____ Date: _____
Reviewed by: _____ Date: _____

Patients' Private Property Guidelines

Appendix 4 – FAQ; “Frequently Asked Questions”

- 1) **Why can't I withdraw money from my loved one's PPA? Other families can do it.**
 - A. We have concerns about your loved one's capacity to consent to this.
 - B. We provide for all basic needs.
 - C. Additional items you may feel would be beneficial to your loved one can be purchased by you and repaid to you from your loved ones PPA.
 - D. Purchases should be discussed in advance with a member of the team and you should provide receipts.
 - E. We can arrange for a team member to discuss our assessment of your loved ones capacity If you wish.
- 2) **My relative can sign her name perfectly well on the withdrawal form. Why aren't you giving me the money.**
 - A. We are concerned that even though your relative can sign her name, she may not have the capacity to understand the financial implications of her request.
 - B. We can arrange for a team member to discuss our assessment of your loved ones capacity If you wish.
- 3) **What will happen to the PPA when my relative dies?**
 - A. The account will be closed and the funds handed over to the legal personal representative entitled to administer the estate on production of probate of the will or letters of administration.
 - B. You should contact the probate office or a solicitor for further advice in relation to this.
- 4) **My brother (for example) is written down as the Next of Kin (N.O.K.) but I should be the N.O.K. because I'm the eldest/am closer to my mother etc**
 - A. Next of kin is a legal term applying to all of your mother's blood relatives and we are happy to list you as next of kin as well in that context.
 - B. The next of kin/key contact(s) for the purpose of general matters around your mother's care is a slightly different matter and is nominated by the client.
- 5) **Do we have to assess everyone with a PPP Account if they want to withdraw money?**
 - A. No, only those where we have a doubt about their capacity to consent.
- 6) **What if a client doesn't have a N.O.K.?**
 - A. See 4 above re N.O.K.
 - B. If the client has capacity, the client can access their account as they wish.
 - C. A regular visitor/friend etc may, having consulted with the team in advance, purchase additional items for the direct benefit of the client and be repaid for same on production of receipts.
 - D. If the client has no NOK or visitors a member of the team may assess what additional items/treats etc over and above what HSE funds that the client may benefit from.
 - E. The team member will arrange purchase and this can be deducted from the PPPA account.
- 7) **Who should pay for equipment e.g. special bed, special chair, which might be recommended to improve the comfort and quality of life of a client by, for example, an Occupational Therapist? This equipment may not be medically necessary. This equipment may also be manufactured to individual clients' requirements.**
 - A. If it is medically necessary, it should be provided by the HSE/Service Provider subject to their requirement to operate with the limit of the resources available to them.

-
- B. Anything that is properly paid for out of the funds in a PPPA belongs to the specific client whose PPPA funded it.
- C. Such items must be fully respected as the personal property of that client and not in any way treated by HSE as “generally available” for the use of clients generally.
- 8) If a Solicitor states that he is acting for the estate of a deceased client, is it in order to forward a cheque to the Solicitor in the name of the legal personal reps, where the amount is less than €50,000?**
- A. The less than €50,000 limit applies in cases where it may be possible to pay over monies in the absence of grant of probate/letters of administration.
- B. The HSE may consider making such a payment, once we are satisfied that it is a straightforward case, as outlined in the Probate Flowchart.
- C. In relation to complex cases, the solicitor will need to produce the written grant of probate or letters of administration before any payment will be made to him.
- D. You should refer all difficult cases to the PPPA Central Unit, Tullamore for further advice.
- 9) What if a further next of kin presents after HSE has paid out using the process for accounts with less than €50,000 involving an affidavit and indemnity. Is (a) the indemnity form legally binding and (b) who pays further next of kin? Is it the first next of kin or is it the H.S.E. who then recovers from the first next of kin?**
- A. If such a case arises, contact the PPPA Central Unit, Tullamore.
- B. The “less than €50,000 process” is an accommodation offered by the HSE – HSE is fully entitled to insist on grant of probate/letters of administration in each and every case and should always do so where any doubt exists as to potential further next of kin with a better claim than those making the request.
- C. The affidavit and indemnity will be legally binding provided it was properly executed which requires that the person(s) signing it was fully and independently informed as to its contents and the meaning of them.
- 10) Is it in order to pay funeral bills from the PPPA account before issuing the balance to next of kin?**
- A. The general principle is that the clients’ legal personal representatives/next of kin should make and pay for funeral arrangements.
- B. When PPA funds are paid over to the legal personal representatives they can deal with whoever paid for the funeral and repay them as appropriate
- C. HSE can pay bills for funeral expenses arranged by legal personal representatives/next of kin and charge them against the persons PPPA provided there is sufficient funds in the PPPA account
- D. C. above is limited to the reasonable direct costs of a relatively standard funeral and excludes cater/reception costs etc.
- E. Only in exceptional circumstances should HSE make funeral arrangements and the costs of same can be charged to the specific clients PPPA – if there are insufficient funds then the balance must be charged against HSE own funds.
- 11) What happens my pension when the HSE cashes it each week?**
- Where appropriate, a maintenance charge is deducted and the balance is placed in the PPPA account or given directly to the client at ward level.
- 12) How do I know the HSE isn't using my money for its own purposes?**
- A. The PPPA accounts are operated in accordance with legislation and the guidelines issued and are independently audited annually by external auditors & the C&AG.
- B. These guidelines are available on request and specifically deal with the fact that clients funds are to be used for the benefit of the client and the client alone.
- C. These guidelines also deal with and separate what HSE funds must pay for and what clients funds must pay for.

- 13) Does the HSE give me interest on my money?**
- Interest is credited weekly to all PPP funds held by the PPPA Central Unit, Tullamore. Local funds retained to allow for day to day spending do not attract interest.
- 14) If there is not sufficient funds in the account to pay the full funeral bill should it be part paid from here and relative informed?**
- A. The relative should be informed that there is a bereavement grant available from the Department of Social Protection.
- B. In addition the relative could apply to the community welfare service for further assistance.
- C. See also 10 above.
- 15) Should next of kin submit a written agreement to allow them purchase items out of the PPPA account for the client.**
- A. Prior approval to purchase should be agreed with the team and receipts must be provided – see also above.
- 16) Should administration staff look for Identification from relative when withdrawing money.**
- A. The team should use discretion – if the next of kin is unknown to them, they may ask for identification where there is a need to do so.
- B. HSE preference is to provide withdrawals by cheque to the client who can pass to the relative/other third party or to send by post to the address listed by the client when they completed the withdrawal form.
- C. Where the client lacks capacity the only “withdrawal” will be where someone is being re-imbursed for items purchased for the direct benefit of the client
- the key issue in such cases is did the client get the item and has a valid receipt been produced
 - the I.D. of the person seeking re-imburement is of secondary importance.
- 17) When a resident dies, can we give solicitors a copy of the undertaker's bill?**
- A. Yes, provided they are the legal personal representative or acting for them or can show other good cause as to why HSE should do so. .
- 18) Should we cash the cheques we give to clients out of the PPP account?**
- A. The handling of cash places an administrative, control and security risk on our already busy staff.
- B. Cash payments should be discouraged where possible.

Appendix 5 – Probate Forms & Documents

Declaration & Deed of Indemnity

PATIENT PRIVATE PROPERTY ACCOUNT

RELEASE OF DECEASED PATIENT'S FUNDS



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

STATUTORY DECLARATION AND DEED OF INDEMNITY

This is an important legal document. You must ensure that you understand its implications prior to signing it. You should consider whether you need to obtain independent legal advice to assist you to understand it prior to signing.

DETAILS OF DECEASED PATIENT:

| | |
|---|--|
| NAME OF DECEASED PATIENT: | |
| DATE OF DEATH: | |
| DATE OF BIRTH: | |
| PPS NUMBER OF DECEASED: | |
| PATIENT NUMBER/CHART NUMBER OF DECEASED PATIENT | |
| LAST KNOWN ADDRESS OF DECEASED. (Other than Unit) | |

DETAILS OF UNIT/NURSING HOME WHERE PATIENT RESIDED PRIOR TO DEATH:

| | |
|---------------------------|--|
| NAME OF NURSING HOME/UNIT | |
| LOCATION / ADDRESS: | |
| LOCAL HEALTH OFFICE AREA | |

APPLICANT'S DETAILS:

| | |
|-----------------------------------|--|
| NAME OF APPLICANT: | CONTACT DETAILS OF APPLICANT: |
| RELATIONSHIP TO DECEASED PATIENT: | Home Phone No.: _____ |
| ADDRESS OF APPLICANT: | Mobile Phone No: _____ |
| | Email Address: _____ |
| | Are You Ordinarily Resident in the Republic of Ireland? |
| | Yes: <input type="checkbox"/> No: <input type="checkbox"/> |

Cont. overleaf

IMPORTANT NOTES TO APPLICANTS SEEKING RELEASE OF FUNDS FROM PATIENT PRIVATE PROPERTY (PPP) ACCOUNTS OF DECEASED PATIENT

This is an important legal document. You must ensure that you understand its implications prior to signing it. You should consider whether you need to obtain independent legal advice to assist you to understand it prior to signing.

1. In paying over the money from a deceased patient's PPP Account, the HSE is seeking to give the money to the correct person(s) – that is, to the person whose role it is to look after the affairs of the deceased patient.
2. In most cases this will be the Legal Personal Representative(s) of the deceased.
3. Where the patient has left a will, then the HSE will pay over the money to the person(s) named as executor(s) in the will.
4. (i) Where there is no will or no executor available, then the HSE wishes to pay over the money to the person(s) who is **entitled to take care of the legal affairs of the patient** (i.e. to the person(s) who is entitled to apply to the Probate Office to have the deceased patient's affairs settled so that any monies or other assets can then be distributed to those who are due them in accordance with the law.)

(ii) Where there is no will the **entitlement** to take care of the legal affairs of the deceased patient, is in the following order:
 - (a) Spouse;
 - (b) Children;
 - (c) Grandchildren;
 - (d) Great Grand Children;
 - (e) Great Great Grandchildren;
 - (f) Father and / or Mother;
 - (g) Brother(s) and / or Sister(s),

and thereafter other more distant relatives.

In the absence of an executor named in a will then the HSE will pay over the money to

- a surviving **spouse** on application, if no surviving spouse then to
- a surviving **child(ren)** on application, if no surviving child(ren) then to
- a surviving **grandchild(ren)** on application, if no surviving grandchild(ren) then to and so on down the list at (a) to (g) above.

5. The person that the HSE pays over the deceased patient's money to has some very important legal duties. These duties must be carried out fully and include:

- 1. Gather in and administer the assets of the deceased;**
- 2. Discharge funeral expenses;**
- 3. Pay all other debts of, or relating to, the deceased (from the assets gathered in);**
- 4. Distribute the balance of any assets either according to the terms of the will or according to statute (to the legal beneficiaries under the Succession Acts);**
- 5. Keep accounts and be able to furnish a full record to the beneficiaries.**

6. It is very important that an applicant (and the HSE) is satisfied that applicant is the person most entitled to apply to look after the affairs of the deceased and receive the monies in the PPP Account. If there are others with the same entitlement e.g. a number of surviving children, then either they should all apply or the applicant will be responsible for ensuring that agreement is reached as necessary with the other persons entitled to apply to take care of the deceased patient's affairs.
7. In cases where the applicant is not a spouse and is normally resident outside the State, revenue clearance **may** be required before funds can be released. This is dependant on the relationship of the applicant to the deceased, the value of the estate, the relevant tax free threshold, any prior gifts or inheritances etc.
8. The HSE reserves the right to seek production of a Grant of Representation to support any application.

Appendix 5 – Declaration and Deed of Indemnity

I/We _____
(INSERT NAME(S) IN BLOCK CAPITALS)

of _____
(INSERT ADDRESS IN BLOCK CAPITALS)

in the City/County of _____ aged 18 years and upwards do solemnly and sincerely declare as follows:-

1. I have read and understood the **Important Notes to Applicants** at page 2 of this document.
2. I/We am/are the personal representative(s) of _____ deceased ("the deceased") who died on the ___ day of _____ 20___. I refer to a certified copy death certificate of the deceased upon which marked with the letter "A" I have endorsed my name prior to making this Declaration.
3. **(*DELETE AS APPROPRIATE)**
The deceased died leaving his/her last will dated the ___ day of _____ 19___/20___. I refer to a copy of this will upon which marked with the letter "B" I have endorsed my name prior to making this Declaration.*

Or

The deceased died intestate (i.e. without having made a will).*

(*Where no will delete the following as appropriate)

- ◆ I am the lawful husband/widow*;
- ◆ The Deceased died a widow/widower and I am the lawful son/daughter*;
- ◆ The deceased died a widow/widower without child surviving him/her and that I am the lawful grandchild*;
- ◆ The deceased died a bachelor/unmarried woman (or widow/widower without child, grandchild or other descendant) and that I am the lawful father/mother*;
- ◆ The deceased died a bachelor/unmarried woman (or widow/widower without child, grandchild or other descendant), without parent, and that I am the lawful brother/sister*.

4. I am/we are entitled to claim the proceeds of the deceased's patient private property account ("the PPP Account") from the Health Service Executive ("the HSE").
5. I/We refer to a copy of my/our passport/driving licence/student identity card (issued by an educational institution and containing a photograph)/Bank/Savings/Credit Union Book (containing your address)/Garda ID card/Social Services Card upon which marked with the letter "C" I/we have endorsed my/our name(s) prior to the making of this Declaration.
6. **Disregard this section in its entirety if claimant is not the spouse of the deceased.**

- The deceased was married once and once only, namely to me on the _____ day of _____ 19___/20___. We were each the lawful spouse of the other. I refer to a certified copy of our Civil Marriage Certificate upon which I have marked with the letter "D" I have endorsed my name prior to making this Declaration.
- None of the provisions of the Family Law Act, 1981 (hereinafter called "the Act of 1981") apply to the deceased's estate because he/she was not a party to an agreement to marry which terminated within three years prior to his/her date of death, and no proceedings of any kind have been threatened or instituted under any of the provisions of the Act of 1981.
- No proceedings of any kind have been instituted or threatened, and no application or order or agreement of any kind has been made, in relation to the deceased's property, under any of the provisions of the Judicial Separation and Family Law Reform Act, 1989, the Family Law Act, 1995 , or the Family Law (Divorce) Act, 1996 .

Cont. overleaf

Appendix 5 – Declaration and Deed of Indemnity

7. All information provided in this 4 page document and in any documentation attached hereto is true, accurate and correct.
8. In consideration of the HSE paying over to me the remaining funds held by it in the PPP Account of the deceased **I HEREBY UNDERTAKE** to carry out any and all legal duties in relation to these funds, including but not necessarily limited to, the duties set out on page 2 of this document.
9. In consideration of the HSE paying over to me the remaining funds held by it in the PPP Account of the deceased I/We agree to indemnify and to keep indemnified the HSE, its servants or agents from and against all actions, claims, demands, damages, costs and expenses howsoever arising by reason of the payment to me/us of the proceeds of the deceased's PPP Account.
10. I/We will administer the estate of the deceased faithfully according to law and give an account of it whenever required by law to do so.
11. I/We make this solemn declaration conscientiously believing the same to be true and pursuant to the provisions of the Statutory Declarations Act, 1938.

DECLARED this _____ day of _____, 20____

by the said _____ (Person making Statutory Declaration signs here)

at _____

in the City/County of _____

before me _____ a Practising Solicitor/Commissioner of Oaths/Notary Public/Peace Commissioner and I know the Declarant.

Practising Solicitor/Commissioner of Oaths/Notary Public/Peace Commissioner

Please Note:

Failure to complete this document fully and correctly will necessitate its return to you and will cause a delay in releasing funds to the Legal Personal Representative. Please review the attached Checklist to ensure that you have completed the key sections and included the required documents.

Thank you.

Checklist:

- Have you completed details of the deceased, their residence and Applicant's Details on Page 1?**
- Have you carefully read the important notes on Page 2 before signing the Statutory Declaration?**
- Have you completed the Statutory Declaration in the presence of a specified witness having carefully read the document and considered the need for legal advice?**
- Has the specified witness completed and signed the declaration?**
- Have you attached the relevant required documents?**

Information on Fees for required Documents and Obtaining Declaration:

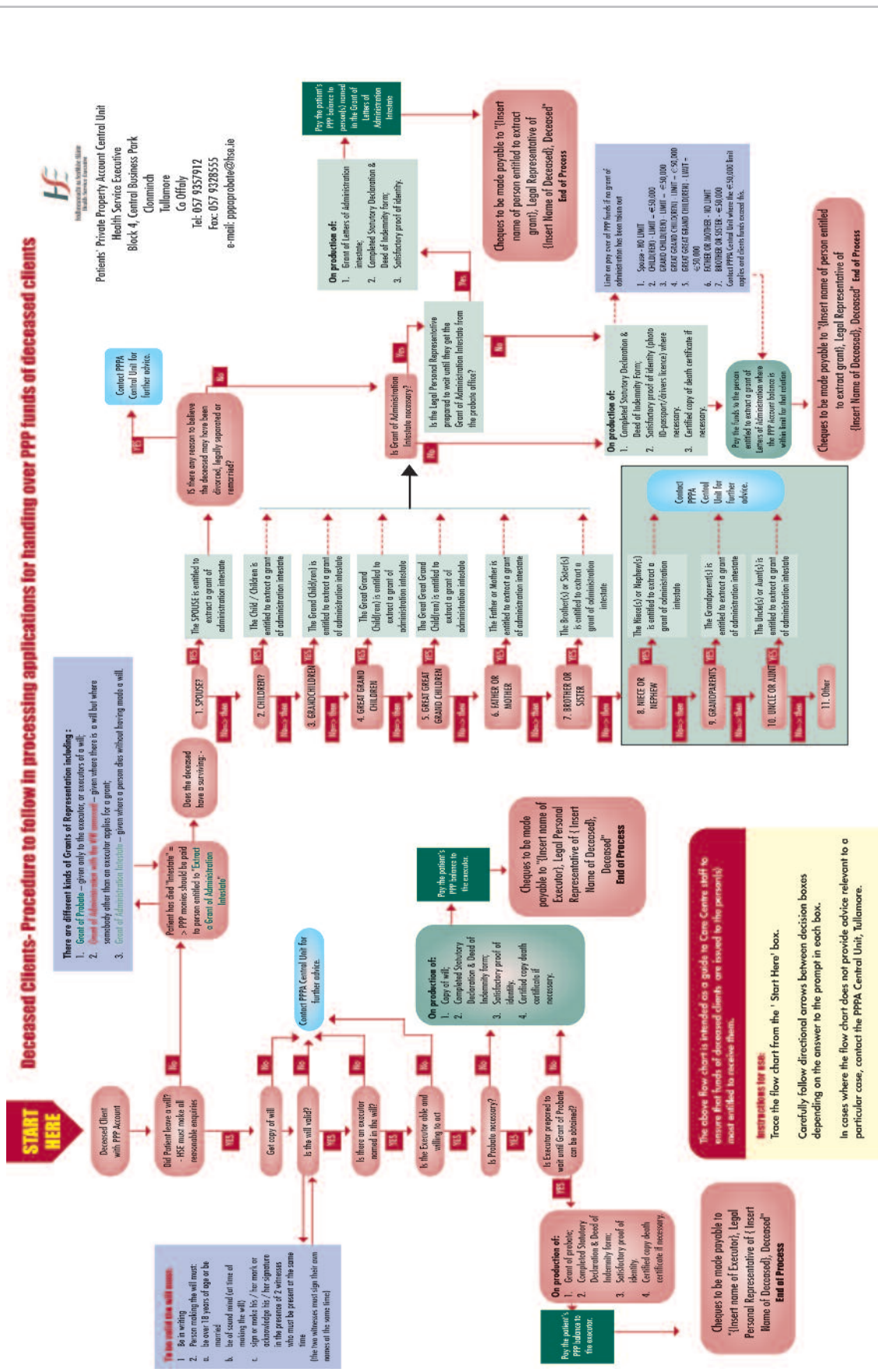
| Documents | Fee |
|----------------------|------------|
| Birth Certificate | €10 |
| Death Certificate | €10 |
| Marriage Certificate | €10 |

Declarations

| | |
|------------------------|-----------|
| Practicing Solicitor | €10 |
| Commissioner for Oaths | €10 |
| Notary Public | €25 |
| Peace Commissioner | No Charge |

Please Note: No fee is payable to the HSE for processing this Application.

Appendix 5 – Declaration and Deed of Indemnity



PPA
Health Service Executive
Block 4, Central Business Park
Clonmink
Tullamore
Co Offaly
Tel: 057 9357912
Fax: 057 9328555
e-mail: pppaprobate@hse.ie

On production of:
1. Grant of Letters of Administration Intestate;
2. Completed Statutory Declaration & Deed of Indemnity form;
3. Satisfactory proof of identity.

Pay the patient's PPP monies to personally named in the Grant of Administration Intestate

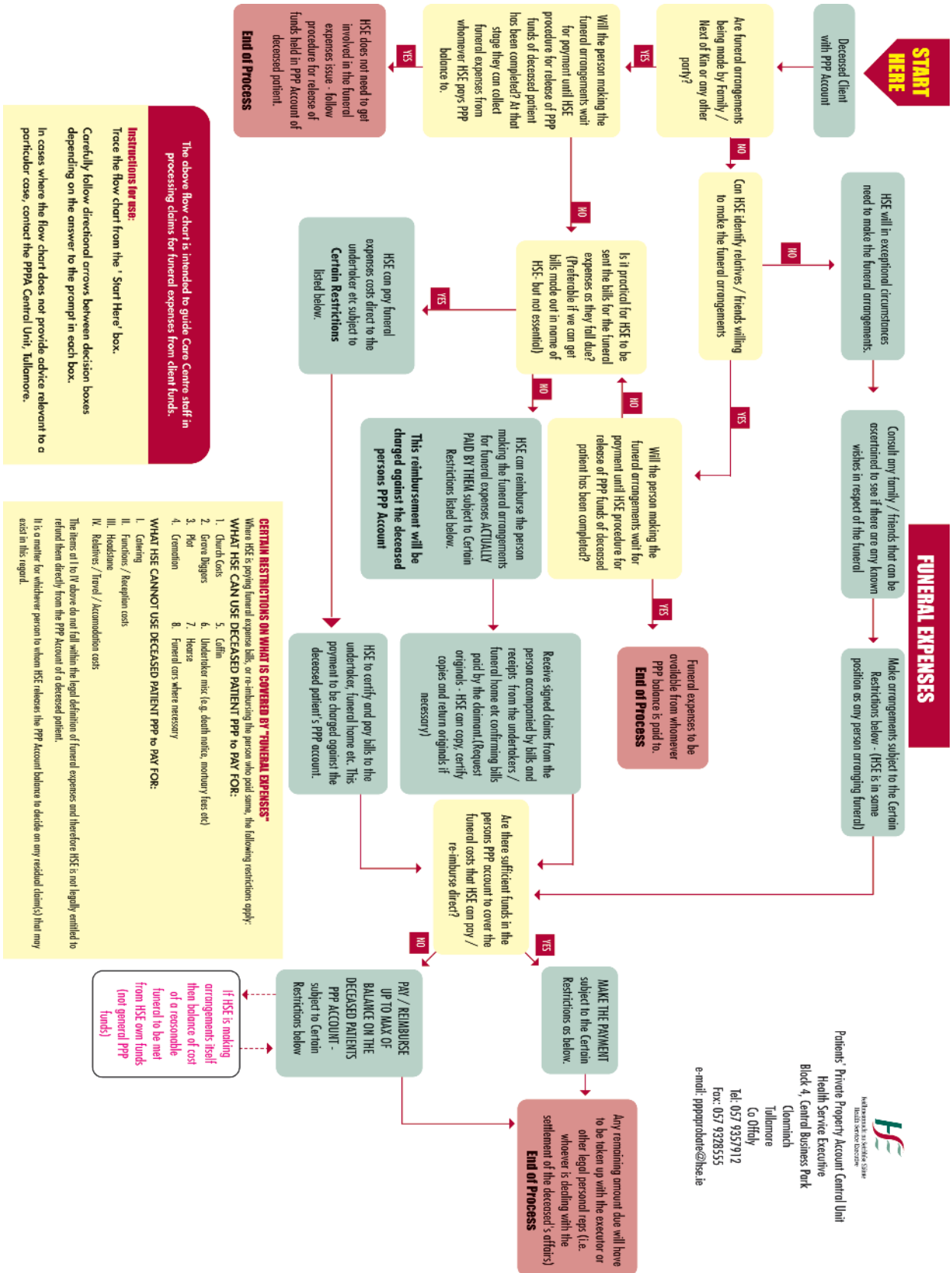
Cheques to be made payable to "Insert name of person entitled to extract grant), Legal Representative of (Insert Name of Deceased), Deceased"

End of Process

Units on pay over of PPP funds if no grant of administration has been taken out

1. SPOUSE - 40 UNIT
2. CHILDREN - 1 UNIT
3. GRANDCHILDREN - 1 UNIT
4. GREAT GRAND CHILDREN - 1 UNIT
5. GREAT GREAT GRAND CHILDREN - 1 UNIT
6. FATHER OR MOTHER - 40 UNIT
7. BROTHER OR SISTER - 40 UNIT

Contact PPPA Central Unit where the €50,000 limit applies and clients funds exceed this.



Appendix 5 – Standard Letters Probate Procedure

Letter 1

Draft letter from HSE to key client contact advising that there are PPP funds and seeking information on the identity of the legal personal representative.

To:

RE: _____ (name of deceased) ("the Deceased")

Late address –

Date of Death –

Dear _____,

I wish to offer you my deepest sympathy on the recent death of _____
(name of deceased).

I confirm that the HSE holds money in a patient's private property account on behalf of the Deceased. I am anxious to have these funds passed to the legal personal representative for distribution to those who are entitled to the funds. I would be obliged therefore if you would let me have the following information as soon as possible:-

- 1) name of legal personal representative
- 2) address of legal personal representative
- 3) relationship to Deceased (e.g. widow/widower/son/daughter etc.)
- 4) name and address of solicitor of legal personal representative (if known)

I look forward to hearing from you at your earliest convenience.

Yours sincerely,

Letter 2

Draft Letter to LPR

To:

RE: _____ (name of deceased) ("the Deceased")

Late address –

Date of Death –

Dear _____,

I have been informed that you are the legal personal representative of the above named Deceased. At the outset I wish to offer you my deepest sympathy on the death of _____ (name of Deceased).

As you may be aware it is the duty of a legal personal representative to ensure that the directions in the Deceased's will are carried through or if the Deceased died without a will to ensure that the Deceased's assets are distributed with law.

I can confirm that the HSE holds funds on behalf of the Deceased in a patient's private property account. The HSE is anxious to have these funds paid to the legal personal representative as soon as there has been compliance with certain legal formalities. In this regard I enclose the Statutory Declaration and Deed of Indemnity.

I would be obliged if either you or your solicitors would arrange to return the completed Statutory Declaration and Deed of Indemnity together with the other relevant required documentation to this office as soon as possible.

As soon as I hear from you this matter will receive further attention.

Yours sincerely,

Appendix 5 – Standard Letters Probate Procedure

Letter 3

Draft Letter to LPR enclosing payment

To:

RE: _____ (name of deceased) ("the Deceased")

Late address –

Date of Death –

Dear _____,

We refer to your application for release of funds from the patient private property account of the above named. We note the content of your Statutory Declaration. We are relying on the undertaking and indemnity which you have furnished us.

We now enclose cheque in your favour in the sum of € _____ being the amount held in the Deceased's patient private property account. Kindly acknowledge safe receipt.

Yours sincerely,

Letter 3

Draft Letter to Solicitor for LPR sending cheque

To:

RE: _____ (name of deceased) ("the Deceased")

Late address –

Date of Death –

Dear _____,

We refer to your client's application for release of funds from the patient private property account of the above named deceased. We are relying on the Statutory Declaration furnished and in particular the undertaking and indemnity contained therein.

We now enclose cheque for € _____ in favour of the legal personal representative. We would be obliged if you would kindly acknowledge safe receipt.

Yours sincerely,

Appendix 6 – Flowcharts & Forms

Key Client Contact Nomination Form



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

*Insert Care Centre
Name and Address here*

To Whom It May Concern:

I, _____ (Client name), hereby appoint

1 Name _____

Address _____

2 Name _____

Address _____

3 Name _____

Address _____

as my Key Client Contact(s) in respect of the administration of my Patient's Private Property Account, held by the HSE.

I understand that the Key Client Contact(s) named above is/are the person(s) who normally liaise(s) with HSE staff on my care and I authorise the HSE to share relevant information with him/her/them to allow my Patient's Private Property Account be best used for my benefit. All decisions in respect of my PPP account will be made by me.

The Key Client Contact(s) will not have the authority to instruct the HSE to transfer funds from my PPP account or to instruct that items or services be purchased.

Signed: _____

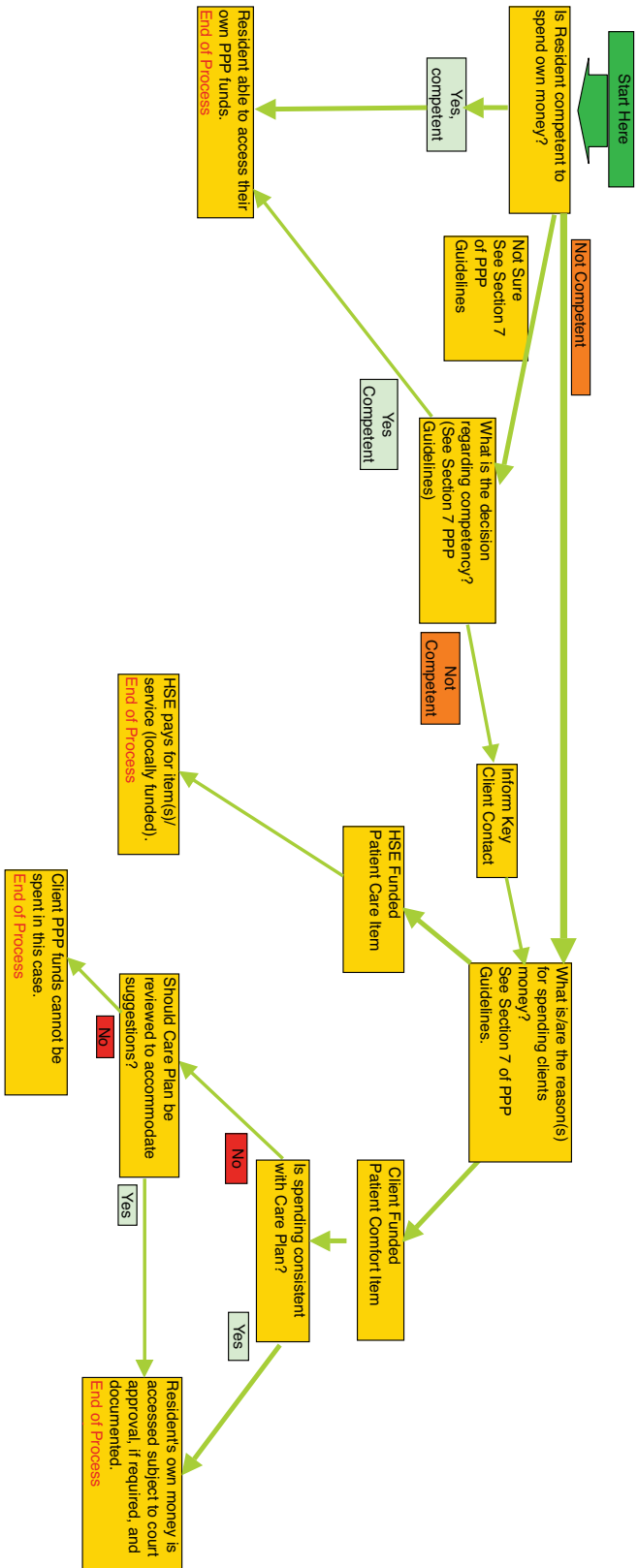
Date: _____

Witnessed by: _____ (*HSE Staff member*)

Date: _____

Appendix 6 – Process for deciding on use of client PPP Funds - Flowchart

Approval to use client PPP funds for their benefit



Note:

This flow chart must only be used in conjunction with the HSE PPP guidelines.

Spending of client PPP funds in excess of €5,000 per year by the HSE requires the prior direction of the Circuit Court.

The HSE makes a decision to spend client funds **only** when a client is unable to manage their own financial affairs.

Appendix 6 – Circuit Court Application Process - Flowchart

Circuit Court Applications for Direction on using PPP funds

STATUTORY INSTRUMENT No. 446 of 2007

The flowchart outlines how applications to the Circuit Court seeking direction on spending client PPP funds should be administered. It is intended to assist staff/administrator spending in excess of €5,000 per annum for clients who are unable to manage their own financial affairs as required by the Health (Repayment Scheme) Act, 2006.

