



National Financial Regulations C-1 Patients' Private Property and Finances

Frequently Asked Questions

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NFR C-1 Patients' Private Property and Finances

1.1 What is PPP?

Patients' Private Property' (PPP) are HSE clients private property. PPP is not limited to client's funds.

PPP includes the items in the list below, as well as other items.

Types of PPP (examples only)
Money and funds placed in a Patient Private Property Account.
Documents that provide access to monies or facilitate the future transfer of monies.
Clothing and footwear.
Jewellery and other small valuable items.
Luggage.
Personal items of furniture, ornaments and so on.
Pension books.
Personal effects.
Other items of sentimental value.

1.2 What is capacity?

The concept of capacity is critical in how the HSE approaches its role as PPP custodians and the extent of interventions that it may take on behalf of clients.

'Capacity' is defined in the [Assisted Decision Making Act, 2015 \('ADMA'\)](#) as follows:

A person's capacity shall be assessed on the basis of his or her ability to understand, at the time that a decision is to be made, the nature and consequences of the decision to be made by him or her in the context of the available choices at that time.

It is important to note when initially considering questions of capacity, it is a functional test of capacity that is relevant and not a mental health examination or assessment. There is a presumption of capacity as a starting point.

1.3 Why is client capacity important?

Capacity determines the following:

- extent of intervention that may be taken on behalf of clients by HSE custodians
- how the HSE is required to fulfil its role as custodians of PPP

If there are any concerns of coercion by a third party, the service provider should refer the case to the [HSE's Elder Abuse Service](#)

1.4 When can a client's decision making fall to Third Parties?

There are 3 situations where client decision making may fall to Third Parties.

Situations in which Third Party decision making arise	
1	Clients who are Wards of Court.
2	Clients who have granted an Enduring Power of Attorney (EPA) to a person.
3	People who are 'Next Friend' appointed by a court.

1.5 What happens PPP on the death of a client?

On the death of a client a deceased client's property is referred to as the deceased's estate. The deceased PPP account balance (both locally held Patient's Private Property and the contents of the Patient's Private Property Central) may be released to:

- the Legal Personal Representative (LPR)
- the solicitor acting on behalf of the LPR

This is done to ensure that the assets can be distributed correctly.

The LPR of a deceased client is appointed by the courts based on whether the client dies with or without leaving a valid will.

The table below provides an overview of how the clients will status impacts how we treat the PPP elements that formed part of their estate.

	Client dies leaving a <u>valid will</u> Known as dying "Testate"	Client dies leaving <u>no will</u> Known as dying "Intestate"
LPR of the Deceased:	The will nominates one or more persons to be the executors of their estate.	Next of Kin seeks Letter of Grant of Administration from the court.
Entitlement of the LPR founded in:	Grant of Probate from the court.	Letter of Grant of Administration from the court.
Distribution of Estate:	According to matters set out in the deceased's will.	According to the provisions of the Succession Act 1965.

The LPR of the deceased collects the deceased client's funds and assets, pay off debts and funeral expenses, and then distribute the balance of the estate to deceased beneficiaries.

Insofar as it is both feasible and appropriate, the HSE should seek to establish whether a client has made a will and who the client's LPR is. If this information is not available at the time of death, then all reasonable enquiries to relatives, friends, and others, as appropriate should be made at that time.

1.6 On the death of a client, what is the process regarding non cash assets?

Assets other than cash may be held on the deceased client's behalf by the HSE. In the case of bank books or records of assets from financial institutions, these should be passed to the CSSO with any other cash and noted in the Chief State Solicitor's Office Spreadsheet Template.

In the case of physical assets, such as jewellery, the assets should be noted in an accompanying spreadsheet and direction should be requested on a case-by-case basis directly through the CSSO.