



**WEST DUNBARTONSHIRE COUNCIL**  
**ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000**  
**PROCEDURES:**  
**Chapter 1 - Guardianship and Intervention Orders**

# AWI PROCEDURES

## Chapter 1

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## **WEST DUNBARTONSHIRE COUNCIL**

### **ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000**

#### **PROCEDURES: Chapter 1 - Guardianship and Intervention Orders**

##### **Introduction**

- 1:1 The following procedures are intended as accessible guidance to interventions in terms of the Adults with Incapacity (Scotland) Act 2000 – hereafter referred to as *the 2000 Act* – within the context of the local authority's duties and powers as prescribed in the legislation.
- 1:2 The document is not intended as a comprehensive guide to the 2000 Act itself, nor can it encompass the significant, and increasing, body of research, guidance, and case law that pertains to the 2000 Act and associated legislation. An extensive library of information relating to the 2000 Act is now available via the internet and other easily accessible sources such as public libraries and community resource centres. **Annex A** of Chapter 1 of the procedures provides useful online links and further sources of more comprehensive information and guidance.
- 1:3 The procedures are aimed primarily at practitioners who, as officers of the local authority, might find themselves in a position whereby they are considering the interventions authorised by the 2000 Act. The procedures are necessarily brief and somewhat limited in scope, so should be utilised in conjunction with reference to the Act itself, associated codes of practice, and further guidance as relevant. Further valuable sources of information and assistance would include colleagues and other agencies deemed expert in this field - including West Dunbartonshire Council's (WDC) Mental Health Officer and Legal services, and external organisations such as the Office of the Public Guardian and Mental Welfare Commission for Scotland.

##### **The Procedures: Chapter 1**

- 1:4 Chapter 1 of the procedures is primarily concerned with those circumstances whereby a **Guardianship** or **Intervention** order might be required in respect of an individual who lacks capacity. Specific reference will also be made to provisions under Section 13ZA of the Social Work (Scotland) Act 1968 (*the 1968 Act*) – see **Annex B**. The procedures will also consider areas of interface between the Act and other legislation such as the Mental Health (Care and Treatment) (Scotland) 2003, and the Adult Support and Protection (Scotland) Act 2007 (hereafter referred to *the 2003 Act*, and *2007 Act* respectively).

##### **Adults with Incapacity (Scotland) Act 2000**

###### **Brief Overview**

- 1:5 The 2000 Act was introduced with a view to promoting the welfare of individuals who lack capacity to make important decisions on their own behalf. It allows for a wide range of interventions in respect of welfare, financial, and property matters.
- 1:6 Capacity refers to the ability of an individual to make informed decisions and/or, take appropriate action, and to understand the possible implications of taking or not taking that action or decision. Interventions in terms of the Act pertain to adults (aged 16 and over) who have been assessed as lacking sufficient capacity to make certain (or all) decisions for themselves with regard to their welfare and/or financial and property matters.

- 1:7 For the purposes of the 2000 Act, an adult who lacks capacity is incapable of-
- acting; or
  - making decisions; or
  - communicating decisions; or
  - understanding decisions; or
  - retaining the memory of decisions,
- 1:8 Due to the existence of an organic mental disorder (such as dementia), learning disability, acquired brain injury, severe mental illness or personality disorder. An individual might also be deemed to be incapable by reason of an inability to communicate because of physical disability. It must be remembered that a diagnosis of any of the above conditions does not necessarily indicate impaired decision making. Moreover, a finding of impaired decision making does not, in itself, constitute grounds for intervention in terms of the 2000 Act.
- 1:9 It is important to bear in mind that *capacity* is a complex legal concept, and all professionals involved in exercising functions under the 2000 Act should make every effort to familiarise themselves with research and guidance in this regard.

### **The Principles**

- 1:10 The 2000 Act is underpinned by a set of principles that must be adhered to when consideration is being given to any intervention contained therein. The principles must also be considered in the context of Section 13ZA of the 1968 Act.

#### **Principle 1 – benefit:**

- 1:11 There shall be no intervention in the affairs of an adult unless the person responsible for authorising or effecting the intervention is satisfied that the intervention will benefit the adult and that such benefit cannot be reasonably achieved without the intervention.

#### **Principle 2 – least restrictive option:**

- 1:12 Where it is determined that an intervention in the affairs of an adult or in pursuance of the 2000 Act is to be made, such intervention shall be the least restrictive option in relation to the freedom of the adult, consistent with purpose of the intervention.

#### **Principle 3 – take account of the present and past wishes of the adult:**

- 1:13 In determining if an intervention is to be made, and, if so, what intervention is to be made, account shall be taken of the present and past wishes of the adult so far as they can be ascertained by any means of communication, whether human or by mechanical aid appropriate to the adult.
- 1:14 **It is important to note that it is compulsory to take account of the present and past wishes and feelings of the adult if these can be ascertained by any means possible.**

## **Principle 4 – consultation with relevant others**

- 1:15 If determining if an intervention is to be made, and, if so, what intervention is to be made, account shall be taken of the views of:
- the nearest relative and primary carer of the adult;
  - the named person (as defined in the 2003 Act);
  - any proxy (guardian or attorney) who has powers relating to the proposed intervention;
  - any person whom the sheriff has directed should be consulted; and
  - any other person appearing to the person responsible for authorising or effecting the intervention to have an interest in the welfare of the adult or the proposed intervention, where these views have been made known to the person responsible;

In so far as it is reasonable and practicable to do so.

## **Principle 5 – encourage the adult to exercise residual capacity (ie – whatever skills s/he retains); and to support the development of new skills**

- 1:16 Any guardian, proxy, or manager of an establishment exercising functions under the 2000 Act shall, in so far as it is reasonable and practicable to do so, encourage the individual to exercise whatever skills s/he has concerning property, financial affairs or personal welfare as the case may be, and to develop new such skills. This would also be normal good practice for others providing support to the person.

## **The Presumption of Capacity**

- 1:17 A fundamental cornerstone of the legislative framework is the presumption of capacity. This dictates that all individuals must be regarded as having capacity unless there exists evidence to the contrary. In legal proceedings, the burden of proof lies with the person who is indicating that capacity is lacking. Further evidence is then required in order to establish that the proposed intervention is warranted (and consistent with the principles).

## **Intervention Orders**

- 1:18 An intervention order grants authority for a one-off decision to be made and/or action to be taken on behalf of an adult who lacks capacity. The power granted under an intervention order might relate to the subject's welfare, health, finances or property. Examples of circumstances whereby an intervention order may be appropriate would include: the sale of heritable property to raise capital for care costs; the conveyance of the adult to hospital for treatment in respect of a physical health issue; signing a legal document such as a tenancy agreement, or the termination of such a contractual agreement.

## **Guardianship Orders**

- 1:19 A guardianship order is more suitable when there is a requirement for ongoing intervention in respect of an individual's welfare, finances, or property concerns. There are two forms of Guardianship: welfare and financial. A guardianship order is generally less limited in its scope than an intervention order in that it will typically allow for a degree of flexibility in terms of the discharge of functions, and will remain in place for a longer period (at the discretion of the Sheriff). Notwithstanding this, a guardianship order will only confer authority in respect of those powers granted by the Sheriff. An application for guardianship must specify the powers sought, as only those deemed appropriate and necessary will be granted. The principles must be applied when considering what powers should be sought.

## **Duty of the Local Authority to Apply**

- 1:20 Under the 2000 Act, the local authority has, in certain circumstances, a duty to apply for an intervention and/or guardianship order.
- 1:21 Intervention Order (Act reference: Section 53(3)):
- 1:22 Where it appears to the local authority that:
- a) the adult is incapable as mentioned in section 53(1); **and**
  - b) no application has been made or is likely to be made for an order under this section in relation to the decision to which the application under this section relates; **and**
  - c) an intervention order is necessary for the protection of the property, financial affairs or personal welfare of the adult,
- they shall apply for an intervention order under this section.
- 1:23 Guardianship Order (Act reference: Section 57(2)):
- 1:24 The 2000 Act provides that where it appears to the local authority that:
- (a) an adult is incapable in relation to decisions about, or of acting to safeguard or promote his or her interests in his or her property, financial affairs or personal welfare, and is likely to continue to be so incapable; **and**
  - (b) no other means provided by or under the 2000 Act would be sufficient to enable the adult's interests in his or her property, financial affairs or personal welfare to be safeguarded or promoted; **and**
  - (c) no application for guardianship has been made or is likely to be made; **and**
  - (d) a guardianship is necessary for the protection of the property, financial affairs and/or personal welfare of the adult,
- they shall apply under this section for a guardianship order.
- 1:25 While there will be many circumstances whereby the requirement to intervene is established during the course of routine assessment and care management, the local authority is also obliged to investigate circumstances where the personal welfare of an adult might be at risk (Section 10(1)(d)). The findings of this investigation may prompt a statutory intervention in terms of the 2000 Act, or, in the event of urgent action being required\*, the 2003 or 2007 Acts as appropriate.

\*The 2000 Act has no specific provision for authorising urgent action to safeguard the welfare of an adult. While it is possible to apply to the Sheriff for an interim order pending a full hearing to consider an application for guardianship, this option requires for the full application (with reports) to have been lodged.

## **Deprivation of Liberty**

- 1:26 When considering whether to intervene in the life of an adult, and on what basis (for example, when Section 13ZA of the 1968 Act is being considered), consideration must be given as to whether the proposed intervention would constitute a ‘deprivation of liberty’ as defined under Article 5 of the European Convention on Human Rights. Where it is concluded that an adult may be deprived of his or her liberty should an intervention be pursued, an order will be required with a view to ensuring that the deprivation is consistent with the terms of Article 5. The application process also ensures that the adult’s rights are safeguarded, and that the principles are applied in a rigorous manner. For further information, please refer to **Annex B**.

## **From Assessment to Case Conference**

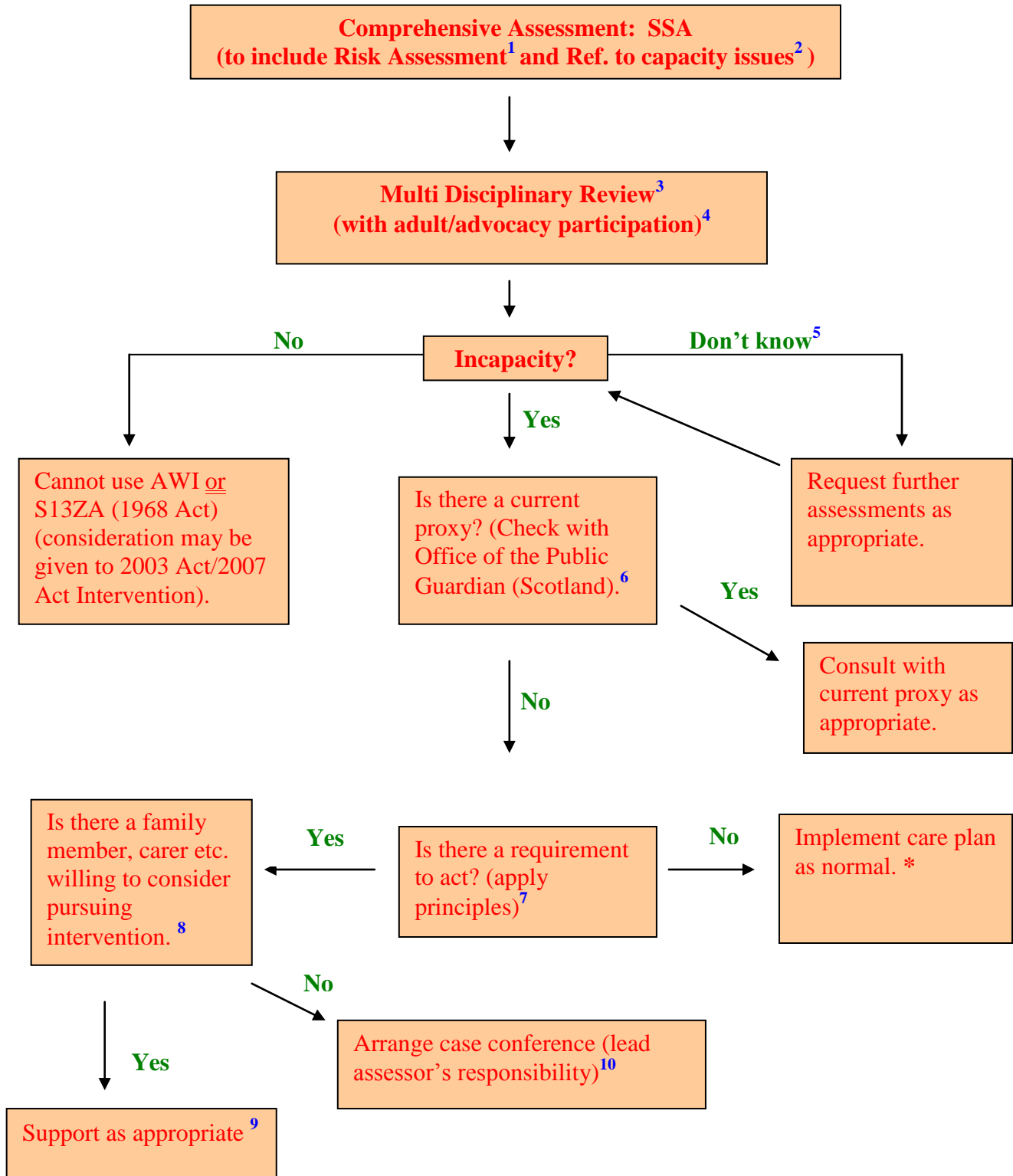
- 1:27 For ease of reference, flow charts have been used to indicate key stages in the process of considering and pursuing an intervention in terms of the 2000 Act. Explanatory notes are attached where appropriate.
- 1:28 **Diagram 1** refers to the procedure whereby a completed comprehensive assessment might ultimately result in a case conference being convened to consider an intervention in terms of the 2000 Act. The flowchart has accompanying explanatory notes with links to further sources of information where appropriate.

# AWI PROCEDURES:

## Section 1: Intervention & Guardianship Orders.

Diagram 1:

From Assessment to Case Conference.



- N.B. – a case conference must be convened to consider S13ZA Exceptional circumstances may apply if agreed with Senior Manager (at chair level). For further information relating to S13ZA, please refer to Annex B.

## AWI Procedures.

### Diagram 1 Notes:

1. The completed assessment must be current (an appropriately updated assessment is appropriate, but must be signed off/agreed upon as per standard procedure).

**Risk assessment:** all assessments will include considerations surrounding risk. For the purposes of considering possible statutory intervention, it is important to highlight what measures have already been taken to manage those risks identified. The 'least restrictive option' principle clearly applies in this regard.

2. **Capacity:** The Scottish Government has produced a helpful guide to communication and assessing capacity. This publication is designed for social work and healthcare practitioners and can be accessed using the following online link:

<http://www.scotland.gov.uk/Publications/2008/02/01151101/0>

3. A **multi-disciplinary review/case discussion** should afford the opportunity for all parties with an interest in the adult's welfare to express their views.
4. **Participation:** Wherever practicable the adult should be supported to participate. The provision of independent advocacy is a crucial consideration in this regard. The meeting should focus on the needs and welfare of the adult, with specific reference to the extent to which appropriate services can be provided *without* recourse to statutory intervention. The main issues discussed during this meeting, and any decisions made, should be formally recorded in a minute.
5. **Establishing incapacity:** (see also note 2 above) The requirement to establish whether an adult is incapable of making decisions on his or her own behalf is fundamental to the process of considering if and when to utilise the provisions contained within the 2000 Act. This is a complex task, and should be approached on a multi-disciplinary basis. It is often helpful, at this time, to obtain the views of the adult's general practitioner (GP) as to possible incapacity issues, highlighting any specific areas of concern as incapacity is not a *catch-all* concept for the purposes of the legislation. Further relevant assessments such as: CT (computerised tomography) and MRI (magnetic resonance imaging) scans; psychiatric; neuro-psychological; and occupational therapy, can greatly assist in establishing the existence and degree of incapacity.
6. **Current proxy?:** It is important to ascertain whether there is a current proxy in place - ie – someone with legal authority to make decisions on the adult's behalf. This might be a previously appointed welfare or continuing (financial) power of attorney. The Office of the Public Guardian (Scotland) (OPG) may have a record of this information. Contact details for the OPG can be found by accessing the following online link:

<http://www.publicguardian-scotland.gov.uk/>

The local authority has a general duty to provide information and advice to any proxy exercising functions under the 2000 Act when a request is received in this regard.

7. **The requirement to act:** The fact that an adult has been assessed as incapable does not, in itself, constitute grounds for a statutory intervention. Once again, reference to the principles is a key factor when considering whether there is a requirement to act. At this stage in the process, the lead assessor might want to consider seeking advice from a Mental Health Officer (MHO), or from the local authority's legal service. The MHO service of West Dunbartonshire Council operates an on-call duty

rota during the hours of 0845 – 1645 (Monday - Thursday) and 0845 – 1555 (Friday). The duty MHO is available to offer telephone advice and assistance during these periods.

8. When considering whether it is appropriate for the local authority to pursue an intervention, **it is first necessary to establish if there are any other interested parties who might consider making an application** (Section 53). This might be a family member, informal primary carer, or any other interested party who has an ongoing interest in the welfare and/or financial affairs of the adult.
9. It is considered good practice on the part of the local authority to provide information, advice and support to those considering pursuing an intervention under the 2000 Act.
10. It is the responsibility of the lead assessor to arrange the **case conference**. The case conference must be chaired by a designated senior manager. The lead assessor should also contact the MHO service manager who will allocate an MHO to undertake an initial assessment for the purposes of informing the discussion at case conference. Ten working days notice will generally be required in order to facilitate allocation and assessment. If the attendance of a solicitor from the local authority's legal section is required, this should be discussed and agreed in advance, and sufficient notice given. An appropriately trained minute taker must be in attendance as the minute may be taken as evidence in any subsequent legal proceedings.

For further guidance as to case conference arrangements, please refer to ancillary guidance as issued.

## **ANNEX A**

### **SECTION 13ZA, SOCIAL WORK (SCOTLAND) ACT 1968**

#### **Provision of Services to Incapable Adults**

##### ***Background***

Section 13ZA of the 1968 Act was inserted by amendment at Stage 3 of the Adult Support and Protection Bill in February 2007. S13ZA affords a local authority scope to make a significant decision on behalf of a person who requires *community care services* (including any permanent change of home address facilitated by the local authority) and who lacks capacity as defined in the 2000 Act, without recourse to statutory measures.

**The general principles as set out in Section 1 of the 2000 Act must be taken into account at all stages when considering any intervention in respect of an adult who lacks capacity.** This applies whether the intention is to pursue an intervention under the 2000 Act, or where it is deemed appropriate to invoke Section 13ZA.

13ZA will only apply where the local authority have decided that an adult's needs call for the provision of a community care service and it appears to the local authority that the adult is incapable in relation to decisions regarding the identified service/s. **Section 13ZA is not applicable in respect of an adult who has capacity.**

##### **When does S13ZA apply?**

Broadly, S13ZA would afford sufficient authority for the local authority to consider moving an adult to a care placement or to make other significant changes to care arrangements where:

- there is no proxy with relevant authority and there is no application for an order under the 2000 Act with relevant powers in the process of being determined; and
- the risk assessment indicates that there are no issues that would warrant an order under the 2000 Act; and
- it is considered that the adult will not be deprived of his or her liberty under Article 5, ECHR (see below); and
- there would be no other benefit to the adult in applying for an order.

In addition, the following factors are key indicators as to S13ZA being an appropriate option:

- the person does not object to the proposed action; it appears that he/she is unlikely to indicate an unwillingness to remain in the care arrangements;
- all interested parties agree with care intervention proposed.

### **Circumstances whereby 13ZA cannot be used:-**

13ZA **does not** authorise the local authority to take steps under 13ZA where it is known that:

- There is a current Guardian or a Welfare Attorney with powers relating to the proposed steps. Where a proxy is already in place, the local authority should consult with that party and seek agreement and consent to act where possible (in the event of no agreement being reached, the local authority must consider whether there remains an imperative to act, and takes steps accordingly);
- An intervention order or guardianship order has been granted relating to the proposed steps; or
- An application has been made **but not yet determined** for an intervention order or guardianship order under Part 6 of the 2000 Act relating to the proposed steps.

### **When should an order under Section 6 of the 2000 Act be obtained?**

A local authority should obtain an order under part 6 of the 2000 Act where:

- the circumstances in section 53 and 57 of the 2000 Act arise, i.e. it appears to the local authority that the adult is incapable, no application has been made for an order in relation to the decision in question, and an order is necessary for the protection of the property, financial affairs or personal welfare of the adult; and/or
- in providing the care intervention needed, the circumstances amount to a deprivation of liberty;

*In addition to these features, indicators that a care intervention under the 2000 Act may be appropriate would be:*

- the person with impaired capacity is **opposed to the proposed course of action as far as can be ascertained;**
- the carer/family members have expressed a different view to that of the person and/or the health and social work professionals involved with the needs assessment and care plan, or there is disagreement amongst professionals. In such cases, where no agreement can be reached, local authorities may conclude that the only way to protect the personal welfare of the individual would be through an application for an order and a hearing in front of a sheriff. **Even where there is doubt about how convincing the evidence may be in court, where concerns remain over the capacity of the individual to protect their own welfare and there is such a disagreement, the matter should be placed before the court for a decision.**

## **Deprivation of Liberty**

Local authorities as public authorities must act in a manner compatible with the European Convention on Human Rights (ECHR) and the power does not allow steps to be taken which would be incompatible with those rights, including depriving an adult of their liberty in terms of Article 5, ECHR.

Where the conclusion is reached that the proposed action would amount to a deprivation of liberty, then an order will be required to ensure that such deprivation is in accordance with a procedure prescribed by law in terms of Article 5, ECHR.

**Annex B** provides guidance to assist in considering whether a proposed care intervention is likely to constitute a deprivation of liberty.

## ANNEX B

### ASSESSING WHETHER THE PROPOSED CARE INTERVENTION AMOUNTS TO 'A DEPRIVATION OF LIBERTY' IN TERMS OF ARTICLE 5, EUROPEAN CONVENTION ON HUMAN RIGHTS (ECHR)

**1** Where a person lacks the capacity to give informed consent to the proposed care intervention, consideration must be given as to whether the circumstances would amount to a 'deprivation of liberty'. This guidance seeks to summarise the factors identified as relevant by the ECHR cases to date. Professionals using this guidance should take account of these factors in assessing whether a person in their care may be deprived of their liberty.

**2** 'Deprivation of liberty' is not defined in Article 5, ECHR itself. However, the European Court of Human Rights (ECtHR) and domestic courts have considered its interpretation. What amounts to a deprivation of liberty will depend on the circumstances of each individual case. It is therefore not possible to have rigidly defined criteria stating what will and will not amount to a deprivation of liberty. It will depend on the particular care intervention/ package that is being proposed for the adult and the circumstances of the adult him or herself.

**3** However, case law can provide us with an indication of what might be considered to amount to a deprivation of liberty. A recent example of a decision of the ECtHR in this area was in the case *H.L. v UK* (referred to as 'Bournewood'). The ECtHR in Bournewood considered that what amounts to a 'deprivation of liberty' will depend on the specific situation of the person concerned, taking account of a whole range of factors arising in their particular case, such as the type, duration, effects and manner of implementation of the measure in question. The court further elaborated that the distinction between deprivation of, and restriction upon, liberty is merely one of degree or intensity and not one of nature or substance. In brief this particular case concerned an adult with autistic spectrum disorder who did not have the capacity to consent and whose carers were opposed to his being resident in hospital. The ECHR decided that there had been a deprivation of liberty and, as it had not been in accordance with a procedure prescribed by law, it breached Article 5.

**4** Another case in point is that of *H.M. v Switzerland*. In that case a vulnerable but mentally capable woman was placed in a nursing home against her will. The ECtHR concluded that placing her in a nursing home was a responsible measure taken by the competent authorities in the applicant's own interests in order to bring about the necessary medical care and adequate living conditions and was not a deprivation of liberty. The case of *Muldoon* is a Scottish case in which the sheriff considered the above two ECtHR cases in the circumstances of a compliant but incapable adult who was placed in a nursing home without a Part 6 (2000 Act) order having been obtained. The sheriff concluded that where an adult was compliant with a regime, but legally incapable of consenting to or disagreeing with it, then the adult was deprived of his or her liberty and that therefore that step should not be taken without express authority governing it (i.e. a Part 6 order). The Scottish Government does not agree with this interpretation of the ECtHR cases. The ECtHR cases make it clear that all of the circumstances of the case have to be taken into account and that incapacity of itself does not automatically mean that there will be a deprivation of liberty in the provision of the care intervention/package to that adult. It is of note that in the case of *H.M. v Switzerland* the ECtHR concluded that there had been no deprivation of liberty even where the adult was capable.

#### Identifying deprivation of liberty

**5** What amounts to deprivation of liberty depends on the interaction and accumulation of factors, as well as degree and intensity, in relation to the specific circumstances of the individual. It could be argued that institutional care will always be more restrictive than care at home, but this may not necessarily be the case. This guidance should therefore be applied regardless of care setting.

**6** The following list of factors is illustrative of those which may be relevant in considering whether the care intervention might constitute 'deprivation of liberty'. Consideration needs to be given to whether deprivation, within the meaning of Article 5 ECHR, is likely to arise either immediately or in the future; and, if so, whether such deprivation is justified in the light of all the relevant factors. It will be necessary to consider the combined impact of all the restrictions place upon the adult.

- Factors affecting personal autonomy, including:
  - **the person's past and present wishes** - daily choices available within the care setting i.e. activities, meals, bedtimes, etc;
  - **access to resources** to support physical and social autonomy and interests as far as possible;
  - **the extent/nature of limitations on contact** with the outside world, including for example: contact with their partner, spouse, family members, friends, others with an interest in the person; opportunity for visits, telephone contact; access to local community. If the person is prevented from leaving the facility, whether by locked doors or restraint, that would be a factor in considering whether or not there is deprivation of liberty. **However, restrictions placed for the person's protection would not necessarily amount to deprivation of liberty if opportunities exist to see family and friends and go out accompanied.** A person is not deprived of their liberty simply because they lack the physical ability to leave or the mental capacity to form a genuine intention to leave;
  - **internal design of physical environment and accessibility** - the extent/ nature of limitations on living/moving about within a care setting. For example, if the person is not allowed any freedom of movement within the facility they are probably deprived of their liberty. Restrictions which are unavoidable within a group living situation and which apply to all residents would be unlikely in themselves to constitute deprivation of liberty. However, this would depend on the context and the extent of other restrictions imposed on the person concerned;
  - **external physical environment and access**, e.g. safe garden. If the person is accustomed to and enjoys being outside for a while each day and is prevented from doing so, then this will be a factor to consider in terms of deprivation of liberty;
  - **the use of restraints**, e.g. limitations on movement such as placing the person in seating or situations from which they do not have the physical ability to remove themselves/duration of any limitations. Although the use of restraint to administer treatment or care would not necessarily constitute a deprivation of liberty in the absence of any other restrictions, it should be seen as an indicator that a person's wishes are possibly being over-ridden and careful consideration should be given as to whether they are deprived of their liberty. (See the Mental Welfare Commission's Guidance (2006) 'Rights, Risks and Limits to Freedom' and Guidance on 'Covert Medication' (2007));
  - **skills and abilities of staff** to communicate with person and quality of that interaction;
  - **Effect of change in care regime** - consider whether the changed care regime will be more or less restrictive than the person is accustomed to, e.g. will the person have greater freedom of choice and less restricted environment, for example, the person with learning disability moving from hospital to community; person with dementia being moved from isolated top tenement flat to ground floor room in a care home with a safe garden area.

**7** Deciding what amounts to 'deprivation of liberty' will depend on the circumstances of each individual case. Such decisions may involve a fine balancing of elements and in such cases practitioners might want to consider taking advice from their own legal departments.

## **Annex C**

### **Useful addresses and publications**

#### ***Office of the Public Guardian (Scotland)***

*Hadrian House*

*Callendar Business Park*

*Callendar Road*

*Falkirk*

*FK1 1XR*

Enquiry line: 01324 678300

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

For information and advice about matters covered by the Act. The OPG's focus is primarily on financial matters. If they cannot assist directly with queries on other matters relating to adults with incapacity ( e.g. welfare, health, care) they will point you to other agencies who will be able to help. The OPG does not provide legal advice. All OPG publications, including forms and guidance notes can be downloaded. Hard copies are available on request.

#### ***Mental Welfare Commission for Scotland***

*Thistle House*

*91 Haymarket Terrace*

*Edinburgh*

*EH12 5HE*

Tel 0131 222 6111

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

Helpline: 0800 389 6809

The Commission provides advice on welfare matters in relation to AWI and free good practice guides - see website for further information.

#### ***Scottish Government***

*Civil Law Division*

*Area 2 W*

*St Andrew's House*

*Regent Road*

*Edinburgh*

*EH1 3DG*

Tel: 0131 244 3581

<http://www.scotland.gov.uk/topics/justice/civil/awi>

Adults with Incapacity Act Codes of Practice and other publications are listed on, and can be downloaded from, the website.

#### ***Dumbarton Sheriff Court***

*Church St*

*Dumbarton, G82 1QR*

*01389 763266*

[www.scotcourts.gov.uk/](http://www.scotcourts.gov.uk/)

#### ***Department for Work and Pensions***

There is a free Benefit Enquiry Line for People with Disabilities on 0800 88 2200 (textphone users 0800 24 33 55). From the local authority you can also get details of the local welfare rights office that will give you advice and help with benefits. You will find useful information and guidance for disabled people and carers on the Department for Work and Pensions website –

[www.dwp.gov.uk](http://www.dwp.gov.uk)

**Care Commission**  
Headquarters  
Compass House  
11 Riverside Drive  
Dundee  
DD1 4NY  
01382 207100

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

The Care Commission is an independent body which regulates care services in Scotland. It inspects and investigates complaints in relation to care homes; short break/respite care services; housing support; adult placement schemes; support services; care at home; nursing agencies; and hospice care. There are national care standards for all these services.

***Law Society of Scotland***

26 Drumsheugh Gardens  
Edinburgh  
EH3 7YR  
0131 226 7411

Client Relations Helpline: 0845 113 0018

[www.lawscot.org.uk/Public-Information/](http://www.lawscot.org.uk/Public-Information/)

The Law Society is the governing body for solicitors. It provides information to the public on where to find and what to expect from solicitors. The Law Society's Client Relations Office has a legal responsibility to handle complaints against Scottish solicitors. To discuss a complaint, or if you need more information, contact the Client Relations Helpline.

***Scottish Legal Aid Board***

44 Drumsheugh Gardens  
Edinburgh  
EH3 7SW  
0131 226 7061  
Legal Aid Helpline: 0845 122 8686

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

Provides advice and information on entitlement to legal aid for applications in relation to the Adults with Incapacity Act; and a list of solicitors registered for legal aid work.

***Citizens Advice Bureau –***

The nearest CAB can be found in the phone book or at:

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

***Scottish Independent Advocacy Alliance***

Melrose House  
69a George Street  
Edinburgh  
EH2 2JG  
0131 260 5380

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

This website will provide a link to the Independent Advocacy Service Directory for Scotland.

***Alzheimer Scotland - Action on Dementia***  
22 Drumsheugh Gardens  
Edinburgh  
EH3 7RN

Office: 0131 243 1453

Freephone 24hr Dementia Helpline 0808 808 3000

[www.alzscot.org](http://www.alzscot.org)

Provides a free guide for carers and people with dementia in Scotland: 'Dementia: Money and Legal Matters'. The website also provides information about the different kinds of powers of attorney and how to set them up. You can call the Dementia Helpline to arrange for a copy to be sent to you.

***ENABLE***  
6th Floor  
7 Buchanan Street  
Glasgow  
G1 3HL  
0141 226 4541

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

Supports people with learning disabilities of all ages by campaigning, providing information, legal advice, training and other services.

***Capability Scotland - Advice Service***  
11 Ellersley Road  
Edinburgh  
EH12 6HY  
0131 313 5510

[www.capability-scotland.org.uk](http://www.capability-scotland.org.uk)

Provides advice and information and local services for people with a range of disabilities, their families and carers.

***Scottish Association for Mental Health***  
Cumbrae House  
15 Carlton Court  
Glasgow  
G5 9JP  
Tel: 0141 568 7000

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

Provides information, legal advice and support to people with mental health issues.

**SENSE Scotland**  
43 Middlesex Street  
Kinning Park  
Glasgow  
G41 1EE  
0141 429 0294

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

Works with children and adults who have communication support needs because of deafblindness, sensory impairment, learning and physical disabilities.

**PAMIS**  
Head Office  
Springfield House  
15/16 Springfield Road  
University of Dundee  
Dundee  
DD1 4JE

01382 385 154

[www.dundee.ac.uk/pamis](http://www.dundee.ac.uk/pamis)

PAMIS works with people with profound and multiple learning disabilities, their family carers and professionals who support them.

**Headway Scotland**

Tel. 0131 537 9481

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

Headway provides: support and help to people affected by brain injury through a network of local groups and branches; information and advice; carer support; and a range of services (which vary from area to area).

**Chest, Heart and Stroke Scotland ( CHSS)**

65 North Castle Street  
Edinburgh  
EH2 3LT  
0845 077 6000

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

e-mail [advice@chss.org.uk](mailto:advice@chss.org.uk)

Adviceline: 0845 0776000

CHSS aims to improve the quality of life for people affected by chest, heart and stroke illness through medical research, advice and information and support in the community.