



Ark[®]
People
Housing
Care

Trust Accounts & 'Access-to-Funds' Procedure

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Trust Accounts & ‘Access-to-Funds’ Procedure

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1.0 Introduction

When an individual has been assessed as lacking capacity to manage their finances, Ark can apply to the Department of Work and Pensions (DWP) and/or Social Security Scotland to be their corporate appointee and manage benefit and state pension income on their behalf.

Applications for 'access-to-funds' (ATF) may be made to the Office of the Public Guardian (OPG) for one-off lump sums required on behalf of the supported person.

Both processes will require Ark to open a trust account on behalf of the supported person.

Care & Support teams should seek to support people to develop the skills to take more control over their finances wherever possible. Care & Support teams must be clear about the need for support and that interventions are the minimum required to achieve the supported person's outcomes.

1.1 Relevant Policies and Procedures

This procedure is aligned with **CS05 Support with Money**

It should be read and understood in conjunction with:

- CS04 Risk & Vulnerability
- CS05a Support with Money
- CS06 Reducing Restrictive Practice
- CS23a Quality Assurance (Care & Support)
- F01 Financial Regulations
- G57a Adult Support & Protection

2.0 Corporate appointeeship

If a supported person's income is through a state pension or welfare benefits administered by the DWP and/or Social Security Scotland, Ark is able to become a corporate appointee.

Each service has an ID number from the DWP and this should be used in all correspondence to ensure that relevant information is sent to the correct Ark service. The Care & Support Manager (CSM) or Operations Manager (OM) can request this from the DWP if it is currently unknown.

Note that individuals already in receipt of DWP benefits that will in future be administered by Social Security Scotland do not need Ark to reapply for appointeeship; DWP will advise directly.

See: <https://www.mygov.scot/acting-on-behalf-of-someone-claiming-benefits/> and <https://www.gov.uk/become-appointee-for-someone-claiming-benefits>

2.1 Applying for appointeeship

If a Care & Support team believes an individual does not have capacity to manage their finances, the CSM/OM should consult with multi-disciplinary partners and family members. This must include the social work care manager and any person who holds legal guardianship or power of attorney. The CSM/OM should also seek advice from the Ark Compliance and Improvement Officer.

Once a decision is reached on the measures it is appropriate for Ark to take, the CSM/OM should seek permission from their Regional Manager to apply for appointeeship and thereafter open a trust account. DWP/Social Security Scotland will then assess the individual to decide whether the supported person has capacity to manage their benefit and form BF56 will be completed at this time. If required by DWP/Social Security Scotland, evidence of incapacity may be provided through a letter from the individual's GP, or a certificate of incapacity. Note that benefit can be paid to the corporate appointee to another account (e.g. the service's account) should there be a delay in the start of the trust account.

The CSM/OM will make the application for appointeeship directly to DWP/Social Security Scotland. They should be provided with, and must request if necessary, form BF57 which confirms appointeeship.

The CSM/OM must confirm to any legal guardian and the social work care manager that appointeeship is in place, and details recorded in the individual's Good Life documentation.

2.2 Appointee's responsibilities

Ark's responsibilities as appointee:

- signing benefit claims forms
- advising DWP / Social Security Scotland of changes in circumstances
- spending benefit in the individual's best interests
- informing DWP / Social Security Scotland if Ark stops acting as appointee (because, for example, the individual can now manage their own financial affairs or the individual dies).

Note that failure to advise of changes in circumstances that affect an individual's entitlement or to spend the benefit in their best interests may be considered benefit fraud and subject to criminal proceedings, in addition to being an Adult Support & Protection issue. See: **G57a Adult Support & Protection**.

3.0 'Access-to-funds'

This is a process separate to corporate appointeeship that may be used by Ark in order to access and manage funds on behalf of an incapable adult. This scheme is suitable when, for example, an individual has a savings account they cannot access, a personal pension, or they require access to a lump sum to pay debts or make one-off purchases.

Note that ATF can run alongside other decision-making processes like financial guardianship, financial intervention orders and appointeeship.

See: <https://www.publicguardian-scotland.gov.uk/access-to-funds>

3.1 Applying for 'Access-to-funds'

After following the initial steps detailed above in section 2.1 to determine and agree the need for application; the Head of Compliance & Improvement will make the application directly to the OPG, with support as required from the relevant CSM/OM.

The OPG will liaise directly with the Head of Compliance & Improvement to confirm the application.

3.2 Ark's responsibilities

Ark's duties when using this scheme are:

- to maintain accurate records
- to maintain confidentiality of the supported person's financial affairs
- to report to the OPG as required
- to ensure the account does not become overdrawn.

4.0 Trust accounts

A trust account is a bank account opened by Ark on behalf of the supported person. It can only receive ATF and welfare benefit monies.

Trust accounts may have an operating cost. All stakeholders must be aware of this charge prior to the application being made, and the supported person's income able to manage this charge.

When Ark is granted appointeeship or authority for ATF, a trust account will be opened in order to manage the individual's income.

Trust accounts may also be opened when Ark has been granted another form of legal authority in the form of a written agreement from: a financial guardian, continuing power of attorney, a person appointed by DWP/Social Security Scotland to manage the individual's benefit, or person authorised by the OPG to access funds.

Note that welfare guardians and welfare attorneys do **not** have the legal power to authorise Ark to open a trust account.

A Risk & Vulnerability Assessment must have been completed and the reason for the decision to open a trust account recorded in the individual's Good Life documentation.

4.1 Opening a trust account

The CSM/OM will provide the supported person's name and proposed account signatories to their Ark Finance Officer, along with any other information required. The Finance Officer will conduct checks as necessary to ensure the correct authorisation is in place.

Care & Support staff acting as signatories should have been in post for at least 6 months. Ark understands this may not be possible in new services.

There is no maximum limit of signatories to the account. The CSM/OM is responsible for ensuring the correct number of signatories to cover annual leave, sick leave and so forth. As the CSM/OM must audit trust accounts monthly and signing-off weekly finance audit, they cannot act as account signatories.

The Finance Officer will liaise directly with the preferred bank to open the account and will then send on the cheque book to the CSM/OM.

When a change of signatory is required, the CSM/OM will contact the finance officer, who will provide an update form to complete. This is returned to the finance officer for action, with the relevant Regional Manager copied-in. This includes when a signatory leaves Ark; the CSM/OM must advise their Finance Officer who will then liaise with the bank to remove that signatory from the list.

4.2 Trust account income

Wherever possible, income will be paid directly into the account and remittances received from the payee.

Where payment is made by cheque, Care & Support staff must:

- Record the receipt of the cheque
- Place the cheque in a secure location; the individual's or local office's safe.
- Record the location of the cheque

- Bank the cheque as soon as possible

4.3 Withdrawing from the trust account

To withdraw money from the account, 1 signatory will write a cheque. A 2nd signatory will then check this correct, and take it to the bank to withdraw the money.

In a service where it is not possible for 2 signatories to complete this process, it may be completed by 1 signatory. This must be noted in a risk assessment.

Cheques and/or withdrawal slips must never be pre-signed. They must be completed and cashed in the same day. The CSM/OM must take this into account when deciding the minimum number of signatories to the account.

Where possible, regular payments like utilities, TV license and so forth, should be paid by direct debit or standing order. See **CS05a Support with Money**

4.4 Money for daily/weekly needs

As part of setting the individual's personal outcomes, a daily or weekly amount of money that the individual needs should be agreed. See **CS05a Support with Money**

An individual may not be able to manage their whole income, but be able to manage a smaller amount. The individual could have a separate bank account which receives money via standing order from the trust account. They would then manage this smaller sum as they see fit. This is subject to multi-disciplinary agreement. See: **CS06 Reducing Restrictive Practice**

4.5 Savings

An individual's entitlement to means-tested benefits will cease if their savings breach the capital savings threshold. See **CS05a Support with Money**

5.0 Recording and auditing

The CSM/OM must audit trust accounts every month. This must include checking that balances are not close to breaching benefit thresholds, see section 4.4 above. The CSM/OM is responsible for informing DWP/Social Security Scotland if a benefit threshold has been breached. The list of approved signatories must be reviewed to ensure this is up-to-date, and the Finance Officer advised immediately of any signatories to be removed from the list.

All Care & Support staff must follow **CS05a Support with Money** and **CS23a Quality Assurance (Care & Support)**

6.0 End-of-service or death of a supported person

6.1 End-of-service

When a service ends through termination of contract, whilst Ark is operating a trust account on behalf of a supported person, Ark will liaise with the new care provider or family, as appropriate. Ark Compliance and Improvement will release any balance held on behalf of the supported person, upon receipt of a signed 'receipt and indemnity'.

6.2 Death of a supported person

Legal powers, for example guardianship and attorney, cease immediately upon the individual's death. Thereafter, it becomes the responsibility of the executor of the will to manage the estate. If an individual dies intestate, responsibility for their estate falls to the local authority. Any monies remaining in the trust account becomes part of the individual's estate.

The CSM/OM will follow **CS11 Death of a Supported Person**.

The CSM/OM must advise their Ark Finance Officer, who will liaise with the bank to close the trust account and will draft a letter for the account signatories to sign, which will be sent to the bank.

The Head of Compliance & Improvement must advise the OPG of the individual's death if Ark has Access-to-funds.

The Head of Compliance & Improvement will liaise with the relevant Ark Finance Officer, executor or local authority and ensure that the balance held by Ark is administered appropriately. In most cases it will be possible for Ark to transfer the sums held on behalf of

the supported person to the executor, family members or other beneficiary upon receipt of a signed 'receipt and indemnity'. However, in the case of larger or more complex estates it may be necessary for Ark to request a copy of a 'Grant of Confirmation', which is the document which provides authority to deal with an estate. This will be obtained by the executor from the Sheriff Court, prior to Ark releasing the sums held.

7.0 Confidentiality & records retention

Ark will keep all financial information relating to a supported person in strict confidence.

All staff will follow **G24 Privacy & Data Protection** and **G17 Retention of Documents**.

8.0 Implementation and Review

8.1 Implementation

Care & Support Managers/Operations Managers are responsible for the implementation of these procedures by their Care & Support staff.

8.2 Review

Ark Operations Managers' group is responsible for the review of these procedures, at least every 3 years. Any changes to the associated policy as a result must be submitted to the Board of Management for approval.