

Guidance Note to Persons appointed as Committee of Estate of a Mentally Incapacitated Person (“MIP”)

Pursuant to Part II of the Mental Health Ordinance, Cap. 136, you have been appointed as committee of the estate of a MIP to manage and administer his/her property and affairs. The purpose of this Note is to give you information about your role and responsibility as a committee. This Note also highlights certain steps you need to take as committee. In case of doubt, you should consult your lawyer or seek further directions or clarification from the Court.

Power of a committee

The court order appointing you will clearly set out your powers. You will note that such powers are limited to dealing with the MIP’s property and financial affairs.

Your powers come to an end when:

- a) the Court is satisfied that the MIP has recovered; or
- b) the MIP dies; or
- c) another committee is appointed to replace you.

Duties of a committee

You have a duty to:

- act in the best interest of the MIP at all times
- make sure that the MIP’s money is being used to give him/her the best quality of life
- comply with all Court directions and Orders
- open a committee bank account
- look after the MIP’s property
- make sure all income is collected and all bills are paid on time
- claim all social security benefits that are due to the MIP
- prepare accounts every year or whenever the Court needs you to
- keep all important documents and other valuable items in a safe place
- keep the MIP’s landed property secure, in a reasonable state of repair, and adequately insured
- deal with the MIP’s tax matters
- obtain Court’s prior approval before dealing with the MIP’s savings and/or investments

- inform the Court about any changes in the MIP's financial situation, e.g. if you discover any further assets of the MIP or if he/she inherits any property or money
- inform the Court if there is a likelihood of the MIP getting married, divorced or involved in any legal proceedings
- inform the Court if preparation of a statutory will is being considered
- inform the Court about any changes in the MIP's address and accommodation fees
- inform the Court of the MIP's recovery
- inform the Court if the MIP dies

Obtaining Court's directions

You should note that once a person has been found by the Court to be a MIP, all dealings with regard to his/her estate, including assets and finance, have to be approved by the Court.

Although you are the committee of the estate of the MIP, it does not mean that you can deal with the MIP's property and financial affairs as you wish. You must check the Order appointing you to ensure that you have the power to do a particular act on behalf of the MIP. In other words if you wish to sell the MIP's landed property, stocks and shares, you need a specific direction in the Court Order to enable you to do so.

When you need to do something on behalf of the MIP which you have not been empowered to do by the Order appointing you, you must apply to the Court, for specific authority to do so. Such application should be made to the Registrar, High Court by letter together with supporting documents unless otherwise directed by the Court. In case of doubt, you should consult your lawyer.

Some steps which, as committee, you need to take:

1. The committee bank account

When you are appointed committee, you should open a committee bank account. You will need to show the bank the Court Order appointing you as committee. Once the committee bank account is open, you must deposit into the account all monies belonging to the MIP. You must arrange for any benefits or income of the MIP to be paid into the committee bank account.

You must always keep the MIP's money separate from your own money.

2. Notice

You should give notice to all relevant authorities (such as Inland Revenue, Land Registry, electricity, gas and water suppliers) that you are now acting as the MIP's committee.

3. Keeping accounts

One of the things you will have to do is to provide an account each year (or for whatever period of the Court has specified) of how you have dealt with the money you received and spent on the MIP's behalf. The duty to provide accounts is usually specified in the Court Order appointing you.

You will find it easier to prepare the accounts if you:

- a) pay all money you receive on MIP's behalf into the committee bank account;
- b) make all payments on the MIP's behalf from the account; and
- c) keep all bank statements, receipts and invoices

----- A specimen statement of accounts is attached to this Guidance Note for your reference.

If you fail to provide accounts as ordered, you risk being discharged as the MIP's committee and you may also be sued by the MIP.

MONTHLY ACCOUNT of the estate of [Name of Mentally Incapacitated Person]

Month/Year: _____ / _____ **(completed monthly)**

Income		Expenditure			
Items	Amount	Items	Amount	Receipts	
				Yes	No
1. Social Security Allowance	\$	1. Nursing Home Fee/Rental	\$		
2. Pension	\$	2. Diaper Fees	\$		
3. Interest/Dividend (<i>e.g. Bank accounts/Shares</i>)		3. Medical expenses (<i>e.g. medical consultation, hospitalization fees, physiotherapist charges, etc</i>)			
(1)	\$	(1)	\$		
(2)	\$	(2)	\$		
(3)	\$	(3)	\$		
4. Rental Income (<i>list address of the properties</i>)		4. Domestic helper	\$		
(1)	\$	5. Private nurse	\$		
(2)	\$	6. Food	\$		
5. Proceeds from selling of shares/properties		7. Transport	\$		
(1)	\$	8. Utilities (e.g. electricity, gas, rates, telephone, water)	\$		
(2)	\$	9. Other expenses (<i>please specify</i>)			
6. Contributions from family members	\$	(1)	\$		
7. Others (<i>please specify</i>)		(2)	\$		
(1)	\$	10. Repayment of Debts			
(2)	\$	(1)	\$		
		(2)	\$		
Total:	\$	Total:	\$		

Signed by the Committee: _____

Date: _____

(*Please keep all the invoices or receipts and provide copies to the Court)

YEARLY REPORT of the estate of [Name of Mentally Incapacitated Person] as at: [dd/mm/yy]
(*completed yearly*)

<u>Month</u>	<u>Income</u>	<u>Expenditure</u>	<u>Balance</u>
<i>Amount brought forward</i>			\$
January	\$	\$	\$
February	\$	\$	\$
March	\$	\$	\$
April	\$	\$	\$
May	\$	\$	\$
June	\$	\$	\$
July	\$	\$	\$
August	\$	\$	\$
September	\$	\$	\$
October	\$	\$	\$
November	\$	\$	\$
December	\$	\$	\$
Total: Surplus/Deficit			\$

Signed by the Committee:_____

Date:_____

(*Separate breakdown for each month to be provided in the form of Monthly Account)

ASSETS of the estate of [Name of Mentally Incapacitated Person] as at: [dd/mm/yy]
(*completed yearly*)

Assets	Value as at <i>dd.mm.yy</i>	<i>If any of the Assets were sold within this period, please specify</i>			
		Date of Selling	Selling Price	Deduction of Costs (if any)	Net Value
1. Bank Accounts (<i>please state name of bank & account no.</i>)					
(1)	\$				
(2)	\$				
2. Shares/Equity/Bonds/Funds					
(1)	\$				
(2)	\$				
(3)	\$				
(4)	\$				
3. Landed Properties					
(1)	\$				
(2)	\$				
(3)	\$				
4. Items in Safe Deposit Boxes					
(1)					
(2)					
5. Other Assets e.g. life policies, jewellery, cars, antiques, etc					
(1)	\$				
(2)	\$				

Signed by the Committee:_____

Date:_____

(*Please provide the Court with copies of bank statements, funds/trusts statements, shares statements, etc)