

# NHS Lothian

Internal Audit 2023/24

Patient Funds Follow-up

November 2023

## FINAL REPORT

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It is the responsibility solely of NHS Lothian's management and directors to ensure there are adequate arrangements in place in relation to risk management, governance, control and value for money.



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# Executive summary



## Background

The Standing Financial Instructions (SFIs) set out NHS Lothian's responsibility to provide safe custody for money and other personal property handed in by patients who are not able to manage them effectively themselves, e.g. adults with incapacity.

Patients' property, other than that retained in the patients' possession, must be held in a safe at ward/department level, or in the safe within the Cashiers Department, as appropriate. Facilities for the temporary safe custody of patient's property/valuables must be made available in all ward areas.

Clinical staff can also apply for a corporate appointeeship if they feel a patient is unable to manage their own finances. A corporate appointeeship should be used when a person is no longer able to deal with financial affairs. If a patient has assets out with DWP benefits, such as free assets and income and other moveable property that need financial management, then applying for powers under Part 4 of the Adults with Incapacity (Scotland) Act 2000 ("the Act") should be considered. The Act allows supervisory bodies, including the NHS, to manage a limited amount of funds and property of residents who are unable to do this for themselves and have no one else available to do so.

The process for applying for powers under Part 4 of the Act and corporate appointeeship is set out within the Patient Funds and Valuable Procedures and includes consideration of all other less restrictive alternatives and whether there is a relative or other guardian who could act on the patient's behalf. The Code of Practice for Supervisory Bodies under Part 4 of the Act ("The Code") sets out the detailed principles, rules and guidelines which should be followed by supervisory bodies, including the NHS, in meeting obligations for adults with incapacity.



## Objectives

The objective of this review is to provide an independent assessment of the design and operational effectiveness of NHS Lothian's internal controls over Patient Funds, specifically focusing on the improvement areas and recommendations identified following our review in November 2019.

Our review focussed on the following potential risk areas:

- NHS Lothian has no documented processes or guidance in place for patient funds which delineates the requirements of the Patient Funds process and/or the process they must follow.
- NHS Lothian does not have the appropriate documentation in place and stored for adults within incapacity supporting the basis for their oversight of funds. As a result NHS Lothian may have inappropriate power of patient funds.
- There is no review of assets/funds held by the Board on behalf of the patients, which may result in patients being in receipt of benefits that they are not entitled to, or that the value of the funds held may exceed that allowed to be management by the Board as per the policy.

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# Executive summary

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## Limitations in scope

Please note that our conclusion is limited by scope. It is limited to the risks outlined above. Other risks exist in this process which our review and therefore our conclusion has not considered. Where sample testing has been undertaken, our findings and conclusions are limited to the items selected for testing.

During our testing we were unable to review a sample of complaint investigation reports therefore, we cannot provide assurance over the quality of these.

This report does not constitute an assurance engagement as set out under ISAE 3000.



## Acknowledgement

We would like to take this opportunity to thank your staff for their co-operation during this internal audit.

# Headline messages



## Conclusion

### Moderate Assurance

We have reviewed the processes and controls around the management of patient funds and have concluded that the processes have provided a **MODERATE LEVEL OF ASSURANCE**. This was confirmed through testing in specific areas of the organisation and through discussions with management.

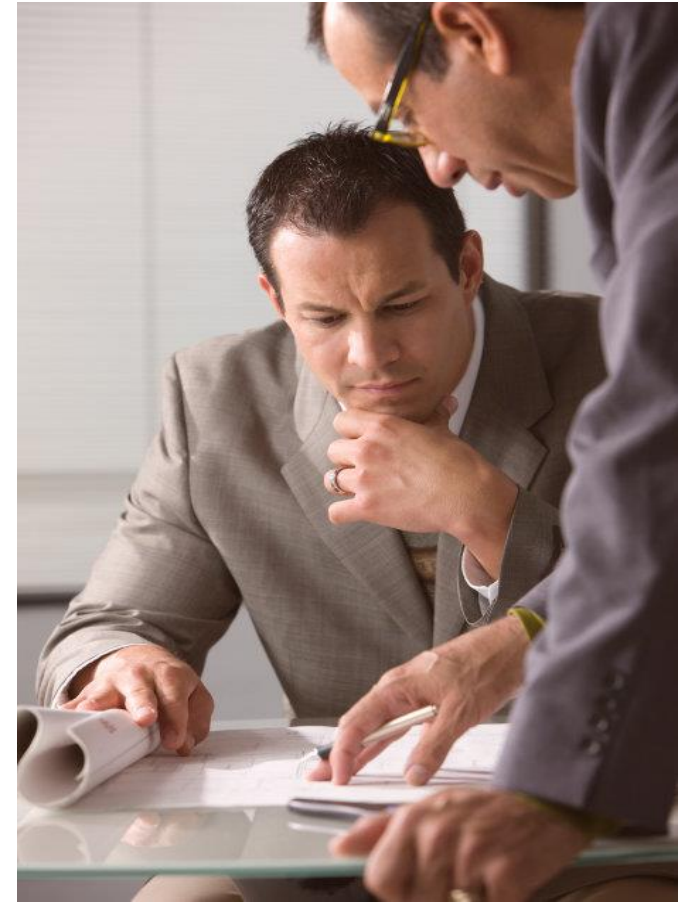
The risks reviewed are set out on the following page with the assurance rating we have assessed for each one and the number of recommendations raised. We have reported by exception against the areas where we consider that Management and the Audit and Risk Committee should focus their attention.

There is appropriate information being provided to the Adults With Incapacity (AWI) Part 4 and Corporate Appointee (CA) Governance Group in relation to approval of new applications as well as financial reporting documenting the financial status of all individuals held under corporate appointeeship. However, whilst a review of the corporate appointeeship status of patients takes place at Adults With Incapacity (AWI) Part 4 and Corporate Appointee (CA) Governance Group, we identified that sufficient action is not being taken to transfer or conclude corporate appointeeship of patients who are discharged from hospital. As such we have raised a high-risk recommendation as within the management of patient funds, this is considered an area which we consider Management should take immediate action on. However, within the scale of NHS Lothian's overall business, this is not sufficient to reduce the overall assurance rating for this review from Moderate Assurance.

This review also noted that further work is required to finalise the procedures that should be followed by staff, with training provided as necessary. All risk areas considered by the review identified weaknesses in the Standard Operating Procedures in relation to the completeness of guidance, ensuring the latest guidance is included, and that key responsibilities are documented within. Once the Standard Operating Procedures have been updated, they should be ratified and appropriate training provided.

Our role is to provide assurances over the processes and controls, and on this occasion, we have identified areas where these could be strengthened. We have therefore raised recommendations around these findings and as such have provided recommendations with a Moderate Assurance opinion overall.

We will review progress made as part of our recommendation tracking during the 2023/24.





# Headline messages



## Conclusion

We have raised six recommendations. The grading of these recommendations is based on risk and is summarised in the table below.

Risks	Assurance rating	Number of recommendations			
		High	Medium	Low	Imp
NHS Lothian has no documented processes or guidance in place for patient funds which delineates the requirements of the Patient Funds process and/or the process they must follow.	<b>Moderate Assurance</b>	-	2	1	-
NHS Lothian Does not have the appropriate documentation in place and stored for adults within incapacity supporting the basis for their oversight of funds. As a result NHS Lothian may have inappropriate power of patient funds.	<b>Significant Assurance</b>	-	-	1	-
There is no review of assets/funds held by the Board on behalf of the patients, which may result in patients being in receipt of benefits that they are not entitled to, or that the value of the funds held may exceed that allowed to be management by the Board as per the policy.	<b>Limited Assurance</b>	1	1	-	-

# Summary of findings



## Examples of where recommended practices are being applied

- Application for Corporate Appointeeships are supported by the completion of relevant documentation with input from healthcare professionals and family members.
- As part of the new process for Adults With Incapacity (AWI) Part 4 and Corporate Appointeeship (CA) Process Management in NHS Lothian, the REH Associate Medical Director has set up a new Adults With Incapacity (AWI) Part IV and Corporate Appointee (CA) Governance Group.
- Terms of reference are in place for the Adults With Incapacity (AWI) Part IV and Corporate Appointee (CA) Governance Group. This lists the membership of the group, alongside its responsibilities and reporting requirements.
- The agendas for each meeting of the Adults With Incapacity (AWI) Part 4 and Corporate Appointee (CA) Governance Group lists those patients that are due a routine review of their Corporate Appointee/AWI status. A standard review form is completed for each patient and included in the meeting papers.
- Staff maintain a spreadsheet which Adults With Incapacity (AWI) Part 4 and Corporate Appointee (CA) Governance Group lists those patients that are due a scheduled review.
- The Finance Manager (O2C) runs a report prior to each monthly meeting of the Adults With Incapacity (AWI) Part 4 and Corporate Appointee (CA) Governance Group that list the level of funds held for all patients with Corporate Appointeeship / AWI alongside the movements from the previous month.



# Detailed findings & action plan

1.1

Moderate Assurance

NHS Lothian has no documented processes or guidance in place for patient funds which delineates the requirements of the Patient Funds process and/or the process they must follow

Finding and implication	Audit recommendation	Management response, including actions
<p><b><u>The Standard Operating Procedures are incomplete</u></b></p> <p>The Standard Operating Procedure for Managing Mentally Incapacitated Patients' Funds is currently in draft and in the process of being updated by the Adults With Incapacity (AWI) Part 4 and Corporate Appointee (CA) Governance Group.</p> <p>While the Code of Practice for Supervisory Bodies has been aligned with parts of the Standard Operating Procedures, the review has noted other aspects of the Code which are not reflected in the procedures. These include:</p> <ul style="list-style-type: none"> <li>• Consideration whether intimation to the person of the intention to seek a medical assessment of their capacity, and/or the intention to seek formal powers to manage their financial affairs, would pose a serious risk to the resident's health.</li> <li>• Where intimation to both the resident and their nearest relative takes place, the manager should allow at least 15 working days to elapse between issuing the notification that an examination is to be requested, and the examination then taking place.</li> <li>• An application for a certificate to withdraw and spend funds must be in writing and specify: <ul style="list-style-type: none"> <li>• the resident's name, date of birth and address;</li> <li>• the relevant account(s) of the resident and the fundholders;</li> <li>• whether any cash may be held on behalf of the resident;</li> <li>• the person(s) to be authorised to withdraw and spend funds (being managers, officers, or members of staff of the establishment).</li> </ul> </li> </ul>	<p><b>Recommendation 1</b></p> <p>The Adults With Incapacity (AWI) Part 4 and Corporate Appointee (CA) Governance Group should finalise the Standard Operating Procedure for Managing Mentally Incapacitated Patients Funds.</p> <p>In doing so, the Group should also ensure that relevant parts of the Code of Practice for Supervisory Bodies are included.</p> <p>Once done, a process for the ongoing review of the Standard operating procedures should be established.</p> <p><b>Recommendation 2</b></p> <p>Once the Standard operating procedures have been ratified, management should implement a training framework to ensure that relevant staff are provided with adequate training to allow them to follow the process and appropriately manage patient funds.</p>	<p><b>Actions:</b> Before SOP is finalised, a final review to be undertaken to ensure all the relevant parts of the Code of Practice for Supervisory Bodies are included. The SOP will be issued with mandatory review dates, although the SOP can be updated early as and when process / legislation changes.</p> <p><b>Responsible Officer:</b> Karen Ozden, Nurse Director – REAS</p> <p><b>Executive Lead:</b> Alison MacDonald, Executive Director of Nursing Midwifery and AHPs</p> <p><b>Due Date:</b> 31st December 2023</p> <p><b>Actions:</b> Agreed. Once the SOP is finalised, awareness / training sessions will be held across all sites in partnership with the Site Nursing Director and Clinical Directors.</p> <p><b>Responsible Officer:</b> Karen Ozden, Nurse Director – REAS</p> <p><b>Executive Lead:</b> Alison MacDonald, Executive Director of Nursing Midwifery and AHPs</p> <p><b>Due Date:</b> 31 March 2024</p>



# Detailed findings & action plan

1.2

Moderate Assurance

NHS Lothian has no documented processes or guidance in place for patient funds which delineates the requirements of the Patient Funds process and/or the process they must follow

Finding and implication	Audit recommendation	Management response, including actions
<p><b><u>All relevant documentation is not included in the Standard Operating Procedures</u></b></p> <p>While the Standard Operating Procedures make reference to the Certificate of Incapacity provided as Appendix 11, it is not included within the six documents appended to the Procedures.</p> <p>The Procedures note that the relevant medical practitioner should complete the NHS Lothian Application for DWP Corporate Appointeeship. This has not been appended to the Procedures, although is available through the NHS Lothian intranet.</p> <p>The Procedures also note that the completed NHS Lothian Application for DWP Corporate Appointeeship be sent to: Patients Funds, Link Corridor, Mackinnon House, Royal Edinburgh Hospital. However, this was updated in February 2023 with staff now advised through the form to use a dedicated email address for submission.</p> <p>The draft procedures hold a number of appendices designed to direct staff on the appropriate process to follow according to individual patient circumstances, alongside the governance arrangements in place to provide oversight and management of the process. However, they do not include the appendices that form part of the Supervisory Bodies Code of Practice, such as the Certificate of Incapacity, Certificate of Authority and Content of Notice of Intention to Manage the Financial Affairs of a Resident</p>	<p>Recommendation 3</p> <p>When finalising the Standard Operating Procedure for Managing Mentally Incapacitated Patients Funds, Management should ensure that all necessary forms as per the Code of Practice for Supervisory Bodies are included.</p>	<p><b>Actions:</b> Once the SOP has been finalised, copies of all the necessary forms will be included in the internet-based repository of Policy Online.</p> <p><b>Responsible Officer:</b> Karen Ozden, Nurse Director – REAS</p> <p><b>Executive Lead:</b> Alison MacDonald, Executive Director of Nursing Midwifery and AHPs</p> <p><b>Due Date:</b> 29 February 2024</p>

# Detailed findings & action plan

2.1

## Significant Assurance

NHS Lothian Does not have the appropriate documentation in place and stored for adults within incapacity supporting the basis for their oversight of funds. As a result NHS Lothian may have inappropriate power of patient funds

Finding and implication	Audit recommendation	Management response, including actions
<p><b><u>The relevant documentation to support Corporate Appointeeship applications is not used</u></b></p> <p>The NHS Lothian Application for DWP Corporate Appointeeship, updated in February 2023, includes a checklist of all the required information (documentation and decisions) that is necessary to obtain Corporate Appointeeship.</p> <p>This requires the consultant/healthcare professional to record:</p> <ul style="list-style-type: none"> <li>• Patient Details</li> <li>• Benefit Status</li> <li>• Assessment (through Certificate of Incapacity)</li> <li>• Patient Views</li> <li>• Family views</li> <li>• Nursing Team Views</li> <li>• Mental Health Officer/Allied Health Professional Views</li> <li>• Financial Care Plan</li> </ul> <p>Five patients were added to the Corporate Appointeeship Register during 1 January 2023 and 30 June 2023. It was confirmed that the NHS Lothian Application for DWP Corporate Appointeeship was fully completed in all instances, with the Certificate of Incapacity and Financial Care Plan included. Four of the applications were made before February 2023 and had correctly used the previous version of the application. One application had been completed on 15 June 2023 and added to the Corporate Appointeeship Register on 21 June 2023. However, the new application format had not been used.</p>	<p>Recommendation 4</p> <p>Management should ensure that the most up-to-date documentation is completed when applications for corporate appointeeship are being made.</p>	<p><b>Actions:</b> On submission of applications, documentation will be reviewed and returned to submitter if non-current version of documentation has been used.</p> <p><b>Responsible Officer:</b> Karen Ozden, Nurse Director – REAS</p> <p><b>Executive Lead:</b> Alison MacDonald, Executive Director of Nursing Midwifery and AHPs</p> <p><b>Due Date:</b> 30 November 2023</p>

# Detailed findings & action plan

3.1

## Limited Assurance

There is no review of assets/funds held by the Board on behalf of the patients, which may result in patients being in receipt of benefits that they are not entitled to, or that the value of the funds held may exceed that allowed to be managed by the Board as per the policy

Finding and implication	Audit recommendation	Management response, including actions
<p><b><u>The responsibility and arrangements for discharging patients into the community is unclear</u></b></p> <p>The finance reports routinely prepared by the Finance Manager (O2C) and reviewed by the Adults With Incapacity (AWI) Part 4 and Corporate Appointee (CA) Governance Group includes those patients with balances which are over £16k and patients which have been discharged into the community.</p> <p>Of the 14 individuals included in the Corporate Appointeeship Register rescinded or discharged into the community, six continue to have their appointeeship overseen by NHS Lothian while the discharge process is concluded. Of those, one individual has been included as discharged since at least December 2022, with no date of discharge to the Community Rehab Team recorded. The full listing of all discharged and rescinded patients as at June 2023 is provided as Appendix 1.</p> <p>However, the Service Manager – Adult Acute, Rehab, OPMH &amp; LD Inpatient and Associated Services advised that there is no ongoing review of those patients to ensure that the appropriate benefits etc are being received and that Corporate Appointeeship has been transferred to the community promptly.</p>	<p><b>Recommendation 5</b></p> <p>Management should review the governance arrangements in place in relating to the rescinding of corporate appointeeship and discharged patients to ensure that they are subject to regular review and removed from the corporate appointee register promptly.</p> <p><b>Recommendation 6</b></p> <p>Once the arrangements and responsibilities for the review of discharged patients or with corporate appointeeship rescinded are established, the Standard Operating Procedures should be updated with the key aspect of who will have responsibility for notifying the Department of Work and Pensions clearly stated.</p>	<p><b>Actions:</b> Management acknowledge that the management of discharge patients between NHS Lothian and the community requires review and improvement.</p> <p>The AWI and CA Governance Group will review the current procedures, including the existing linkage with the local authorities to ensure that the transfer / rescinding of appointeeship is promptly picked up as part of the wider discharge planning processes.</p> <p><b>Responsible Officer:</b> Jim Old, Finance Manager (O2C)</p> <p><b>Executive Lead:</b> Alison MacDonald, Executive Director of Nursing Midwifery and AHPs</p> <p><b>Due Date:</b> 31 December 2023</p> <p><b>Actions:</b> Once the review from Recommendation 5 has concluded, the revised process including the key responsibilities will be added to the to the finalised Standard Operating Procedure.</p> <p><b>Responsible Officer:</b> Karen Ozden, Nurse Director – REAS</p> <p><b>Executive Lead:</b> Alison MacDonald, Executive Director of Nursing Midwifery and AHPs</p> <p><b>Due Date:</b> 31 December 2023</p>

# Appendices

# Appendix 1: Rescinded and Discharged as at June 2023

CHI Number	Discharged under Community Rehab Team	Appointee Rescinded / Discharged from Care	Removed from Corporate Appointee Listing
XXXXXXXX319	Community Rehab Team	13.10.22	Yes
XXX265	Community Rehab Team		No
XXXXXXXX355	Community Rehab Team	12.09.22	Yes
XXX499	Community Rehab Team	13.10.22	Yes
XXX622	Community Rehab Team	08.03.23	Yes
XXXXXXXX135	Community Rehab Team	3.10.22	Yes
XXXXXXXX373	Community Rehab Team	3.10.22	Yes
XXXXXXXX113		29.10.22	Yes
XXXXXXXX250	Lawyer Handling	17.01.23	No
XXXXXXXX434	Lawyer Handling	16.01.23	No
XXXXXXXX269	Community Rehab Team		No
XXXXXXXX152	Community Rehab Team		No
XXXXXXXX310	Community Rehab Team		No
XXXXXXXX079	Glasgow Health & Social Care	19.06.23	Yes



# Appendix 2: Staff involved and documents reviewed



## Staff involved

- Finance Manager (O2C)
- Service Manager- Adult Acute, Rehab, OPMH & LD Inpatient and Associated Services



## Documents reviewed

- Standard Operating Procedure for Managing Mentally Incapacitated Patients Funds v8.7
- AWI Code of Practice for Managers
- AWI Code of Practice for Supervisory Bodies
- Corporate Appointeeship Application Form – February 2023
- Adults With Incapacity (AWI) Part 4 and Corporate Appointee (CA) Governance Group Terms of Reference
- Corporate Appointeeship review schedule
- Applications for Corporate Appointeeship
- Corporate Appointeeship review status forms
- Adults With Incapacity (AWI) Part 4 and Corporate Appointee (CA) Governance Group meeting documentation (minutes, action plan, reviews etc):
  - 19 July 2023
  - 21 June 2023
  - 17 May 2023



# Appendix 3:

## Our assurance levels

The table below shows the levels of assurance we provide and guidelines for how these are arrived at. We always exercise professional judgement in determining assignment assurance levels, reflective of the circumstances of each individual assignment.

Rating*	Description
<b>Significant Assurance</b>	<p>The Board can take reasonable assurance that the system(s) of control achieves or will achieve the control objective. There may be an insignificant amount of residual risk or none at all.</p> <p>There is little evidence of system failure and the system appears to be robust and sustainable. The controls adequately mitigate the risk, or weaknesses are only minor (for instance a low number of findings which are all rated as 'low' or no findings)</p>
<b>Moderate Assurance</b>	<p>The Board can take reasonable assurance that controls upon which the organisation relies to achieve the control objective are in the main suitably designed and effectively applied. There remains a moderate amount of residual risk.</p> <p>In most respects the "purpose" is being achieved. There are some areas where further action is required, and the residual risk is greater than "insignificant".</p> <p>The controls are largely effective and in most respects achieve their purpose with a limited number of findings which require management action (for instance a mix of 'medium' findings and 'low' findings)</p>
<b>Limited Assurance</b>	<p>The Board can take some assurance from the systems of control in place to achieve the control objective, but there remains a significant amount of residual risk which requires action to be taken.</p> <p>This may be used when:</p> <ul style="list-style-type: none"> <li>• There are known material weaknesses in key control areas.</li> <li>• It is known that there will have to be changes that are relevant to the control objective (e.g. due to a change in the law) and the impact has not been assessed and planned for.</li> </ul> <p>The controls are deficient in some aspects and require management action (for instance one 'high' finding and a number of other lower rated findings)</p>
<b>No assurance</b>	<p>The Board cannot take any assurance from the audit findings. There remains a significant amount of residual risk.</p> <p>The controls are not adequately designed and / or operating effectively and immediate management action is required as there remains a significant amount of residual risk (for instance a number of HIGH rated recommendations)</p>

# Appendix 4:

## Our recommendation ratings

The table below describes how we grade our audit recommendations based on risks:

Rating	Description	Possible features
<b>High</b>	Findings that are fundamental to the management of risk in the business area, representing a weakness in the design or application of activities or control that requires the immediate attention of management	<ul style="list-style-type: none"> <li>• Key activity or control not designed or operating effectively</li> <li>• Potential for fraud identified</li> <li>• Non-compliance with key procedures/standards</li> <li>• Non-compliance with regulation</li> </ul>
<b>Medium</b>	Findings that are important to the management of risk in the business area, representing a moderate weakness in the design or application of activities or control that requires the immediate attention of management	<ul style="list-style-type: none"> <li>• Important activity or control not designed or operating effectively</li> <li>• Impact is contained within the department and compensating controls would detect errors</li> <li>• Possibility for fraud exists</li> <li>• Control failures identified but not in key controls</li> <li>• Non-compliance with procedures/standards (but not resulting in key control failure)</li> </ul>
<b>Low</b>	Findings that identify non-compliance with established procedures, or which identify changes that could improve the efficiency and/or effectiveness of the activity or control but which are not vital to the management of risk in the business area.	<ul style="list-style-type: none"> <li>• Minor control design or operational weakness</li> <li>• Minor non-compliance with procedures/standards</li> </ul>
<b>Improvement</b>	Items requiring no action but which may be of interest to management or which represent best practice advice	<ul style="list-style-type: none"> <li>• Information for management</li> <li>• Control operating but not necessarily in accordance with best practice</li> </ul>

