Patient Fiduciary Guide

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1. PURPOSE AND OBJECTIVES

The purpose of this Guide is to support the requirements contained in the Health Service Directive titled *Trust and Fiduciary Funds – Administration of Patient Fiduciary and General Trust Monies* and *Protocol for Managing the Patient Fiduciary Fund* by providing administrative and other guidance. The paper is designed for use by Hospital and Health Service employees involved in the administration of the Patient Fiduciary Fund, to assist them in undertaking their obligations in an efficient, effective and accountable manner.

To this end, the objectives of the Health Service Directive *Trust and Fiduciary Funds – Administration of Patient Fiduciary and General Trust Monies* and this Guide are to ensure that:

- Patients’ monies held by the Hospital and Health Services are managed and maintained in accordance with the Hospital and Health Service’s fiduciary obligations and accountability requirements.
- Patients’ Fiduciary records are accurate, relevant, reliable, and consistently maintained to allow for auditing.
- Patients’ Fiduciary transactions are authorised and substantiated with sufficient and readily available supporting documentation.
- Interest on patients’ monies is recorded and expended for the benefit of patients and not used for the Hospital and Health Service’s own purpose.

2. BACKGROUND

Under the National Health Reforms, the former Health Service Districts became separate legal entities known as Hospital and Health Services. These new entities were established under the statutory bodies’ corporate governance framework, which has resulted in significant legal as well as operational changes for the impacted bodies.

Policies issued by Queensland Health, including the Patient Trust Fund Policy Reference No. FP-4.0, are applicable to the Hospital and Health Services until 1 July 2013. The Health Service Directive titled *Trust & Fiduciary Funds – Administration of Patient Fiduciary and General Trust Monies* and this Guide supersede the Patient Trust Fund Policy FP-4.0.

Reference to ‘Patient Trust’ has been changed to ‘Patient Fiduciary’. This terminology better aligns with Crown Law advice on the nature of the patients’ monies/property.

3. SCOPE

The Hospital and Health Services operate two arrangements that have trust or fiduciary type characteristics. Namely:

- General Trust Fund (Trust)
- Patient Fiduciary Fund (Fiduciary)

The scope of this document is limited to the management of the Patient Fiduciary Fund operated by the Hospital and Health Services.
4. COMPLIANCE

Section 50 of the *Hospital and Health Boards Act 2011* (HHB Act) provides for Health Service Directives to be binding on the Hospital and Health Service to which it relates. The Health Service Directive titled *Trust and Fiduciary Funds – Administration of Patient Fiduciary and General Trust Monies* is mandatory and applies to all Hospital and Health Services.

This Patient Fiduciary Guide is non-binding on Hospital and Health Services, other than those items that also are contained as mandatory requirements in the Health Service Directive titled *Trust and Fiduciary Funds – Administration of Patient Fiduciary and General Trust Monies*. However, the Hospital and Health Board (Board) or appropriate senior management of a Hospital and Health Service may choose to direct its employees to comply with all aspects of his Guide.

5. LEGAL AND TAXATION

5.1 Legal Authority

The HHB Act does not expressly authorise Hospital and Health Services to operate Patient Fiduciary Funds.

In order to ensure Hospital and Health Services maintain accountability standards, legal advice was sought from Crown Law to determine whether the Hospital and Health Services have the power to hold and invest patients’ monies.

Crown Law advised, on 11 September 2012, that on the basis that the Hospital and Health Services operate patients’ funds for a bona fide purpose related to the carrying out of their statutory functions, they are of the opinion, that operating these funds can reasonably be considered a function necessary or incidental to the performance of the Hospital and Health Service’s statutory functions and therefore, within their powers under the *Hospital and Health Boards Act 2011*.

The Crown Law opinion is based on the premise that a Patient Fiduciary Fund is not a true trust, but that instead, acceptance of patients’ monies or property and associated administrative responsibilities, despite the lack of legislative provisions, creates a fiduciary relationship between the Hospital and Health Service and the patient.

Crown Law also advised that, although the Hospital and Health Service is not bound by the various duties of a trustee, it is bound by the duties that are imposed by the existence of a fiduciary relationship. Crown Law advised that the Hospital and Health Service is not acting unlawfully if proper authorisations and record keeping are maintained and fiduciary duties/obligations are met. On this basis, a Hospital and Health Service is required to:

- Exercise the rights and powers in good faith for the benefit of the patient to whom the duty is owed and not to use that position for the Hospital and Health Service’s own advantage or for the advantage of another party.
- Maintain individual records for each patient, about the amount of their money or other property held in the Patient Fiduciary Fund.
- Implement an administrative regime requiring patients, or other persons depositing monies on behalf of the patient, to sign an authority for the health facility to deduct relevant fees and charges, if applicable, and to acknowledge that any interest, net of financial institution fees, will be credited to a Patient Amenities General Trust Item to be utilised to benefit all patients.
5.2 Taxation
The Australian Taxation Office, in its opinion of 1991, considered that on the basis that at no time the monies are held in an account held in the patient’s name, the interest that accrues is considered income of the Hospital and Health Service and therefore, exempt from income tax. Subsequent, internal Queensland Health and Queensland Treasury and Trade taxation advice confirms that this holds good for the current arrangements applicable to the Hospital and Health Services.

6. FINANCIAL AFFAIRS OF PATIENTS MANAGED BY THIRD PARTIES

6.1 Introduction
Certain patients may elect not to, or are incapable of managing their own financial affairs, i.e. lack of required mental capacity. An incapable person is unable to go through the process of making a decision and putting it into effect. This process involves understanding the nature and effect of the decision, deciding voluntarily, and then communicating the decision.

6.2 Powers of Attorney Act 1998
The Powers of Attorney Act 1998 provides for two types of powers of attorney:

- General power of attorney.
- Enduring power of attorney.

Both types involve a formal agreement giving a third party the power to make, on behalf of the grantor of the power of attorney, certain specified types of decisions which may be restricted to personal matters or financial matters or include both. The decisions made by the attorney have the same legal force as if they were made by the individual concerned.

A general power of attorney is valid only while the individual who granted it is capable of managing his/her own affairs. To cover instances where a person loses capacity, the concept of enduring power of attorney was created in 1998.

‘Enduring’ means that the power does not cease if the person becomes incapable. Therefore, it is more common for individuals to appoint a third party to manage their financial affairs through an enduring power of attorney.

An instrument granting an enduring power of attorney can address the following matters:

- Both personal/health and financial matters.
- The appointment of more than one attorney with direction of how they are to sign.
- Specify when the power will begin and what matters are covered.
- Specific guidance to the attorney if decision making cannot be supervised by the person giving the power.

6.3 Public Trustee
In some cases, it is the Public Trustee who is formally authorised to manage the financial affairs for adults with impaired decision making capacity.
The Public Trustee of Queensland has delegated, within certain limits, authority to manage aspects of the financial affairs of adults with impaired capacities who reside in the Hospital and Health Service’s facilities. The Hospital and Health Service is able to hold incapable patients’ monies up to a maximum of $1,000 per individual patient account. Amounts in excess of this ceiling are to be remitted to the Public Trustee twice yearly in March and September for investment.

The Public Trustee Delegation Authority allows certain Hospital and Health Service staff to authorise expenditures of patients within prescribed limits and conditions, and thereby minimises instances where prior approval from the Public Trustee is required for expenditure of patients’ monies. This promotes the principle of the least restrictive alternative and helps maximise the patient’s independence and quality of life.

6.4 Guardianship and Administration Act 2000

Queensland adults with impaired decision making capacity have the benefit of the Guardianship and Administration Act 2000, which allows family members or close friends to seek to be appointed as guardians (for personal decisions) or administrators (for financial/legal decisions). A guardian and/or administrator is required to act in accordance with the provisions of the Guardianship and Administration Act 2000 and the directions of the Administration Order.

The Queensland Civil Administration Tribunal is an independent body that determines the most appropriate person to be appointed as an administrator/guardian.

Further information regarding the Queensland Civil Administration Tribunal is available on the Department of Justice and Attorney-General’s web site.

7. DELEGATIONS AND AUTHORITIES

7.1 Responsibility for Patient Fiduciary Funds

As discussed in section 5.1 Legal Authority, a Patient Fiduciary Fund is not a trust, but instead, a fiduciary relationship exists between the patient and the Hospital and Health Service. As such, the authority to hold and expend patients’ monies does not originate from the Hospital and Health Service but from the patient.

For the purpose of administrative control and to ensure that appropriate accountability standards are maintained over patients’ monies, it is necessary for the Board of the Hospital and Health Service to formally delegate specific authority to the Health Service Chief Executive (HSCE) in an instrument of delegation, known as the Patient Fiduciary Delegation, encompassing the functions of receipt and custody of patients’ monies. These delegations are to accord with the delegations established for incapable patients whose financial affairs are managed be the Public Trustee. However, certain HHSs do not expend monies on behalf of patients and hence will only require level 4 delegations to receive and hold patients’ monies. Refer to heading 7.2 Incapable Patients - Public Trustee for further guidance.

The HSCE, with the written approval of the Board, may sub-delegate the functions in terms of section 30(2) of the Hospital and Health Boards Act 2011 to an appropriately qualified employee of Queensland Health or the Hospital and Health Service. The authorised employee may devolve responsibility for the overall day-to-day administration of patients' monies to a designated responsible senior officer. However, this would not diminish the overall responsibility of the relevant Board, HSCE and/or other authorised delegate. Where devolution of the responsibility for overall administration of the Patient Fiduciary Fund occurs, it is to be evidenced by appropriate documentation. As such, every position with a Patient Fiduciary Fund delegation shall have this authority and associated responsibility clearly stated in the Position Description.
7.2 Incapable Patients – Public Trustee

The financial affairs of incapable patients who reside in the Hospital and Health Service’s facilities may be managed by the Public Trustee. In respect of such patients, the Public Trustee has delegated, to the Hospital and Health Service, the authority for appropriate officers to authorise expenditures from the Patient Fiduciary Fund.

The Board of the Hospital and Health Service, or its authorised delegate, is to put in place and maintain formal delegations to specific positions within the Hospital and Health Service in accordance with the delegation structure and limits detailed in the Public Trustee Delegation of Authority. These delegations are separate and distinct from the financial delegations for the Hospital and Health Service’s expenditures, losses and special payments.

There are four levels of delegation contained within the Public Trustee delegation. Levels 1, 2, and 3 apply to the expenditure of monies held by the Hospital and Health Service in a fiduciary capacity for and on behalf of incapable patients whose financial affairs are being managed by the Public Trustee. The upper limits for Levels 1, 2, and 3 are $600, $400, and $200 respectively.

The Level 4 delegation extends only to receiving and holding patients’ monies and includes no authority to approve expenditure. Level 4 delegations are applicable to those positions responsible for the custody and management of patients’ monies.

On this basis, every Hospital and Health Service operating a Patient Fiduciary Fund requires the relevant position/s to be provided with a Level 4 delegation. However, it is recognised that the Levels 1, 2 and 3 delegations will not be relevant to a number of Hospital and Health Services, i.e. those not dealing with incapable patients.

In addition to the above matters, the Public Trustee delegation sets out requirements in relation to several other aspects of the administration of those patients’ whose financial affairs are managed by the Public Trustee as follows:

- Patient account balance ceiling is $1,000.
- Expenditure limit of $600 and requests for expenditures exceeding this limit.
- Access by officers of the Public Trustee to financial records.
- Balance enquires of patients’ monies held by the Public Trustee.
- Asset registers.
- Suspected misappropriation or abuse.
- Communication with Centrelink.
- Legal proceedings, contracts and legal documents.
- Procedures when a resident leaves a facility.
- Death of a resident.

7.3 Incapable Patients – Other

Where an administrator has been appointed in terms of the Guardianship and Administration Act 2000 or an attorney in terms of the Powers of Attorney Act 1998, to manage the financial affairs of a patient with impaired capacity, arrangements need to be agreed, on a case by case basis, between the Hospital and Health Service and the private administrator/attorney.
In respect of arrangements with an administrator appointed in terms of the Guardianship and Administration Act 2000, for the sake of consistency, the structure and limits of the Public Trustee delegation may be used as a basis. This would require a written delegation of authority from the private administrator to the Hospital and Health Service via the HSCE or his/her delegate in the same manner as the Public Trustee delegation.

Where an attorney, appointed in terms of the Powers of Attorney Act 1998, chooses to grant the Hospital and Health Service authority to expend a patient’s money, the attorney is to provide written delegation of authority to the Hospital and Health Service giving specific instructions about the nature and scope of authority granted.

8. PATIENT FIDUCIARY FUND ADMINISTRATION

8.1 Patient Authorities

As part of routine procedures, patients need to be specifically made aware of the conditions of depositing money into the Patient Fiduciary Fund, and that other options for managing their monies are available. Although assistance is provided to patients, Hospital and Health Service employees shall not provide specific financial advice to patients, their families or associates.

In accordance with Crown Law recommendation, if patients wish to deposit monies with the Hospital and Health Service, the relevant facility shall ensure that a signed Patient Authority is obtained with the initial deposit. A copy of the Patient Authority – Appendix 1 should be provided to the patient, if capable or his/her representative, if incapable.

The procedure of obtaining an authority also applies in relation to substitute decision makers, such as a private administrator appointed by the Queensland Civil Administration Tribunal, where an enduring power of attorney is in place, or where a patient wishes a person holding a general power of attorney to act on his/her behalf.

It should be noted that a signed Patient Authority is not required for incapable patients whose financial affairs are being managed by the Public Trustee.

The Patient Authority also covers a blanket authority where payments are made for regular or periodic standard fees and/or charges.

Further, the Patient Authority provides for patients to authorise the Hospital and Health Service to be their agent to receive monies, such as pensions. The Hospital and Health Service, or the name of the relevant hospital, nursing home or other health facility should be used as the receiving agent. Names of individual staff and/or position titles are not to be used. Records of authorities and assignments of monies are to be properly maintained and made available for audit purposes.

8.2 Interest Revenue and Patient Amenities Account

8.2.1 Treatment of Interest

Crown Law has confirmed that a Hospital and Health Service has a fiduciary relationship with its patients, rather than a trustee relationship. Unlike the higher duty owed under the Trust Act 1973, the fiduciary relationship allows a Hospital and Health Service to credit interest on patients' monies to a Patient Amenities Account (General Trust Item) rather than to each individual patient. However, this requires that:

- Every patient or his/her representative is specifically made aware of the ‘pooling’ of interest arrangements prior to depositing money into the Patient Fiduciary Fund.
Authority to 'pool' the interest is given by the patient/patient's representative prior to first depositing money. Note, this requirement, as well as making a patient aware of the 'pooling' of interest arrangements, does not apply to patients whose financial affairs are being managed by the Public Trustee.

The 'pool' of interest, net of financial institution fees, is utilised for the common benefit of patients, i.e. for the provision of patients' amenities.

Interest received by the Hospital and Health Service, in respect of keeping the Patient Fiduciary bank account or a Queensland Treasury Corporation (QTC) investment account, is to be credited to a trust ledger account termed 'Patient Amenities Account' and banked into the General Fiduciary bank account. All interest received is to be checked and verified by a responsible senior officer designated by the Chief Finance Officer (CFO) or other authorised delegate.

The Hospital and Health Service maintains patients' monies at no charge to patients and as such, provides a free banking service for the convenience of patients. The Patient Amenities Account is not to be used to pay costs associated with the administration of patients' monies. However, financial institution fees are direct costs associated with maintaining the Patient Fiduciary bank account rather than costs associated with the administration of the Patient Fiduciary Fund. Consequently, it is considered appropriate for bank fees and charges incurred in operating the Patient Fiduciary bank accounts to be met from the Patient Amenities Account and for only the net interest earned on QTC investment accounts to be transferred to the Patient Amenities Account.

8.2.2 Patient Amenities Accounts Expenditure

Allocation decisions for expenditure of monies from the Patient Amenities Account are to be made by the HSCE/CFO or other person with relevant delegated authority, being mindful of:

- The need for consultation.
- The limits of approved financial delegations for recurrent and non recurrent expenditure.
- Appropriateness of the expenditure.
- Any potential adverse impact on the Hospital and Health Service's current and future operating or capital budget.

In determining how to utilise money from the Patient Amenities Account, consideration should be given to the need for consultation with patients who maintain accounts in the Patient Fiduciary Fund. Where the balance of the Patient Amenities Account warrants, this consultation may occur through a committee, with the majority of the members being patients of the facility maintaining accounts in the Patient Fiduciary Fund. The need for consultation by committee is at the discretion of the HSCE/CFO or other employee with relevant delegation taking into account factors such as materiality, local factors, etc.

Expenditure from the Patient Amenities Account which has an adverse financial impact on the Hospital and Health Service's future budget greater than $10,000, be it recurrent cost or capital replacement cost, may need to be approved at a more senior level. The authorised employee will have to make an assessment of how such future costs will be funded by the Hospital and Health Service from its own budget.

Expenditure incurred in accordance with an allocation decision, may be authorised by officers with a financial delegation for recurrent and non recurrent expenditure, and whose area of responsibility encompasses such approvals. Namely, once the allocation decision has been made, the employee that has authority to make such allocation decisions does not need to approve every item of expenditure made in accordance with that decision.
Patient Amenities Account expenditures should be targeted to improve the quality of life of the patients or residents. Examples of what could be regarded as appropriate expenditure include:

- Equipment, electrical appliances and furniture to improve comfort and quality of life for patients and residents, which are not normally expected to be provided by the facility.
- Small gifts for residents at special occasions such as Christmas, Easter, birthdays etc.
- Computers and software.
- Pay TV, hire or purchase of television sets, DVDs players, DVDs, CD players, CDs and the like.
- Outings, social activities and gatherings, photographs, entertainment, craft activities.
- Books, journals, newspapers, library materials, etc.
- Items to improve surroundings for residents such as prints, pot plants, flowers, etc.
- Pet therapy costs, e.g. pet food, veterinary costs.
- Financial institution fees incurred in relation to maintaining the Patient Fiduciary bank account and QTC investment account.

Examples of what would be regarded as inappropriate expenditure include:

- Medical equipment.
- Clinical supplies.
- Items that would normally be, or might reasonably be expected to be supplied by the facility, such as beds, mattresses, podiatry chairs, commodes, shower trolleys, curtains, blinds and other standard furniture and fittings.
- Patient Fiduciary Fund administration costs.
- Amenities for staff

### 8.3 Withdrawals of Patients’ Monies

A patient’s monies shall be applied only for the benefit of that patient or as directed by that patient.

Withdrawals from accounts of incapable patients where an enduring power of attorney is in place, or where an administrator has been appointed under the *Guardianship and Administration Act 2000*, need to be authorised by the attorney/administrator as substitute decision maker or as per prior established arrangements. Refer section 7.3 Incapable Patients – Other.

Withdrawals from accounts of capable patients where an enduring power of attorney or a general power of attorney is in place can be authorised by either the patient or the attorney.

Where no power of attorney is in place withdrawals from accounts of capable patients can be made only by the patient or on the request of the patient, up to the limit of the relevant patient’s account balance.

Where it is necessary to verify a patient’s identity for Public Trust Office or canteen purposes, an appropriate officer should act in the capacity of witness to the patient’s signature. The generic positions listed under Levels 1, 2, and 3 of the Patient Fiduciary Fund delegation structure may be referred to for guidance in this regard. However, it is not strictly necessary for an officer to possess a formal Patient Fiduciary Fund delegation merely to witness the signature of a patient.
8.4 Patient Account Balance Review

The balance of any individual account forming part of the Patient Fiduciary Fund must not be overdrawn. Accordingly, control procedures, including a monthly review of individual account balances should be in place to ensure that patients' accounts are not overdrawn.

The monthly review also should aim to identify any individual patients' accounts that are dormant and to determine whether the patients are still resident in the facility. Where necessary, action is to be taken to return the monies to the person/s that is entitled to them.

In respect of patients whose financial affairs are NOT administered by the Public Trustee, there is a need to ensure that material individual patient account balances are questioned and followed up on a regular basis so that the patients concerned, or his/her representative, can be reminded of alternative options to placing monies in trust with the Hospital and Health Service. Therefore, Hospital and Health Services are required to review all Patient Fiduciary account balances on a monthly basis and follow up patients/patients’ representatives with significant month-end balances. This trigger amount is determined by the HSCE/CFO. However, to ensure that a HHS fully meets its fiduciary obligations owed to patients, it is recommended that this ceiling is set at $10,000. Where the follow up action does not alter the situation and account balances continue to exceed the pre-determined limit, i.e. $10,000, half-yearly follow-ups will suffice. Appendix 2 contains a draft pro-forma letter that may be used for this purpose.

The account balance of incapable patients whose financial affairs are managed by the Public Trustee need to be reviewed and account balances in excess of $1,000 transferred to the Public Trustee each year in March and September as per the terms of the Public Trustee’s Authority of Delegation.

8.5 Patients’ Property

The fiduciary obligation of the Hospital and Health Service extends to valuables, goods and property deposited by patients for safekeeping. These items are to be documented and safely and securely kept, and a register maintained for this purpose.

8.6 Unclaimed Patients’ Money/Property

Where a patient is deceased, or otherwise unable/unavailable to collect the patients’ money or property, there should be an adequate legally justifiable process and appropriate supporting documentation to ensure full accountability is discharged in the manner in which each case is dealt with, e.g. in accordance with instructions from the patient’s attorney or will.

8.7 Security Deposits – Loan of Medical Aids

When medical aids, such as crutches, walking sticks, nebulisers, collars etc. are provided to patients on a short term loan basis, a deposit should be charged to encourage the return of the item. The amount of the deposit should be determined by the CFO or other appropriate senior officer, and generally should not be less than the replacement cost of the item.

However, discretion may be exercised in cases where it is evident that the patient is genuinely unable to pay the standard deposit for the particular item, or to do so would cause financial hardship. In such cases, the amount of the deposit may be reduced or waived, bearing in mind that the deposit is intended to provide sufficient incentive to return the item.

Deposits are to be banked into the Patient Fiduciary bank account. The Patient Fiduciary Fund accounting records should include sufficient patient details to enable follow up, where required. No interest is payable upon the refund of deposits.

If, after a reasonable time after the medical aid was due to be returned, the item remains outstanding, appropriate follow up action should be initiated and documented.
Where follow up action is unsuccessful, the unclaimed/forfeited deposits may be transferred to the Hospital and Health Service’s Revenue account. This revenue will be retained by the Hospital and Health Service via the normal processes for own-source revenue, and should be used to rectify the condition that caused the forfeiture.

9. ACCOUNTING, RECORD KEEPING AND BANKING/INVESTMENT ARRANGEMENTS

9.1 Accounting Requirements

As per the definition of Income/Asset in the Australian Accounting Standards Board’s *Framework for the Preparation and Presentation of Financial Statements*, the patients’ monies do NOT represent resources controlled by the Hospital and Health Service. These monies are received and held on behalf of patients and as such, they do not form part of the assets recognised by the Hospital and Health Service in its financial statements. Instead, they are disclosed in the Notes to the Financial Statements as Trust Monies. Accordingly, the financial records of patients’ monies is out of scope of the Enterprise Finance Solution (currently Financial and Materials Management Information System (FAMMIS) to be replaced by SAP Asset, Procurement and Finance Information Resource (SAPFIR)) resulting in each Hospital and Health Service needing to maintain an alternative reliable accounting system for the recording and control of patients’ monies.

Patient Fiduciary Funds are subject to audit by Queensland Health’s Audit and Operational Review Branch (internal audit), the Hospital and Health Service’s own internal audit and the Queensland Audit Office (external audit).

9.2 Record Keeping

To ensure patients’ monies are managed effectively and to preserve accountability, their administration should include keeping up to date records of relevant authorities, reconciliations, accounting records and supporting documentation for expenses and outgoings to allow for auditing.

It is necessary to maintain individual records of transactions and balances for each patient. A separate trust ledger account should be kept for each patient who has deposited money into the Patient Fiduciary Fund.

The account/transaction register for each patient should, as a minimum, include the following:

- The name of the patient.
- Deposits and expenditure made for/by each patient.
- Balance of patient monies held by the facility.
- Cash balance of monies held in the ward (if applicable).
- Names and signatures of staff members managing each transaction.
- Authorisations, where relevant.
- Name and signature of staff that check balances.
- Supporting documentation for all transactions (particularly important for incapable patients).

Patients shall be furnished with a monthly itemised statement of the account balance held on their behalf, deposits made and fees and charges deducted during the period. For incapable patients, this statement should be made available for the scrutiny of family members or independent parties whose responsibilities include oversight of the patient’s interests.
Officers of the Public Trust Office shall be given access, at all reasonable times, to the records of patient’s whose financial affairs are being managed by the Public Trustee.

9.2.1 Cash Floats

Cash floats of patients’ monies may be maintained to allow withdrawal by patients as and when required. The establishment of patients’ cash floats and the float amount shall be approved by a senior employee who has the required authority to determine such matters. The float amount should be set within prudent limits and be regularly review to assess its adequacy.

Transactions need to be properly authorised, recorded and supporting documentation retained. Tight security is to be maintained over patients’ monies held in cash by a facility. Handover procedures shall be in place for reconciling cash held against the balance shown in the transaction account.

It may be necessary to keep patients’ monies at ward level. In these circumstances the ward should maintain a Patient Fiduciary transaction register, recording the same type of information that is held for the patient at facility level. The details to be recorded in the transaction register are described above in section 9.2 Record Keeping.

9.2.2 Management Review

The CFO or authorised delegate should establish a system of regularly monitoring the administration of patients’ monies and property at the facility/ward level. Breaches of the Health Service Directive titled Trust and Fiduciary Funds – Administration of Patient Fiduciary and General Trust Monies are to be followed up and corrective action taken to prevent a recurrence and to encourage/enforce compliance. Similarly, compliance with internal policies and this Guide, if mandated by the Hospital and Health Service, is to be monitored.

9.2.3 Training of Staff

The CFO or authorised delegate is to ensure employees involved in the administration of the Patient Fiduciary Fund are adequately trained in the policies and procedures relating to the proper management of patients’ monies and property.

Training is enhanced by covering the reporting of complaints and the requirements of protective legislation such as the Public Interest Disclosure Act 2010.

9.3 Banking and Investment Arrangements

9.3.1 Banking Arrangements

Money relating to the Patient Fiduciary Fund is to be credited to a separate bank account specifically maintained for this purpose. The Patient Fiduciary Fund bank account contains patients’ monies only and as such, the monies can not be utilised to achieve the objectives of the Hospital and Health Service. However, Patient Fiduciary Fund bank accounts shall still be maintained with the selected financial institution in accordance with the approved whole-of-government banking arrangements. Whilst these accounts are to be maintained in compliance with the approved government banking arrangements, they are held outside of the whole-of-Government set-off pool.

Where a Hospital and Health Service is managing patients’ monies in a number of facilities, it is possible to maintain separate bank accounts for ease of administration or alternatively, maintain only one bank account for multiple facilities. Where bank accounts are combined, one issue to be mindful of is that interest earned should be used in an equitable and appropriate manner for the benefit of patients in the relevant facility that earned the interest.
9.3.2 Investments

Hospital and Health Services have been granted Category 2 investment powers in terms of the Statutory Bodies Financial Arrangements Act 1982. In addition to various other relatively short term, highly rated investment products, Category 2 investment powers gives a Hospital and Health Service the powers to invest in various QTC investment products, including QTC’s Cash Fund.

Placing temporarily surplus patients’ monies into Patient Fiduciary Fund accounts with QTC allows for a better rate of interest to be earned on patients’ monies. Patients’ monies should be managed in such a way as to maximise interest earned through QTC while ensuring adequate available funds are maintained in the Patient Fiduciary bank account and cash floats.

Hospital and Health Services, being statutory bodies, shall have regard to the Investment Policy Guidelines for Statutory Bodies issued by Queensland Treasury and Trade. On this basis, a Hospital and Health Service is required to articulate its investment policy in a governing document that describes its investment policy and strategy, risk philosophy, investment objectives, etc. Given that a Hospital and Health Service’s only investment is that of patient fiduciary and general trust monies, it is not expected that preparation of this investment policy document needs to be an overly onerous or complex task.

Patient Fiduciary Fund investments are to be made in accordance with the authorities established for the investment banking arrangements with QTC. Interest received is to be checked, reconciled and verified by a responsible senior officer. Supporting information on all investment transactions is to be kept for audit purposes.

10. OTHER

10.1 Public Patients in Non Public Hospitals/Nursing Homes

In cases such as Service Concession Arrangements, formerly known as PPP (Public Private Partnership), Co-locations or Outsourcing arrangements, public patients may be cared for in a facility not controlled by the Hospital and Health Service. In such circumstances, the facility operator should maintain a fiduciary account service for patients. Issues relating to the management of patients’ monies would become the responsibility of the operator (external to the Hospital and Health Service) who would have a fiduciary obligation to the public patients.

The operator should acknowledge their fiduciary duty to the public patients in their care in respect of monies and property deposited with the operator. The operator should also keep the Hospital and Health Service indemnified for loss or misuse of patients’ monies/property and maintain appropriate fidelity insurance cover in this regard.

The Queensland Audit Office requires access to the operator’s accounts and records with respect to charges and patients’ account transactions relating to public patients.

The Hospital and Health Service should obtain the agreement of the operator with respect to these matters. This would be most effectively achieved by including the appropriate clauses in the service agreement with the operator. Where pre-existing arrangements or agreements are in place with an operator that do not contain such clauses, action should be initiated at the next review opportunity for the operator to accept the inherent responsibility of the fiduciary relationship between that institution and the public patients.

The operator may need to inform the public patients of the operator’s fiduciary obligations, and that the Hospital and Health Service has no involvement in, or responsibility for, the custody of that patient's monies.
11. DEFINITIONS

‘Patients’ monies’ means all monies and property received and held by the Hospital and Health Service for and on behalf of patients.

‘Patient’ means hospital patient or resident (e.g. nursing homes) and substitute (financial) decision-maker appointed by way of a general or enduring power of attorney or an administrator appointed under the Guardianship and Administration Act 2000.

‘Patient Fiduciary Fund’ means all the monies and property received from patients and kept in the custody of each Hospital and Health Service. This includes monies received as security deposits on medical aids. Interest earned on patients’ monies is administered under the Patient Fiduciary Guide but the net interest is transferred into, and expended through the General Trust Fund. The Patient Fiduciary Fund is administered under the responsibility and authority of the Hospital and Health Boards Act 2011.

12. REFERENCES AND APPENDICES

12.1 References

Hospital and Health Boards Act 2011
Statutory Bodies Financial Arrangements Act 1982
Guardianship and Administration Act 2000
Powers of Attorney Act 1998
Public Trustee Act 1978
Trust Act 1973
Public Interest Disclosure Act 2010
Health Service Directive Trust and Fiduciary Funds – Administration of Patient Fiduciary and General Trust Monies
Protocol for Managing the Patient Fiduciary Fund
Framework for the Preparation and Presentation of Financial Statements
Investment Policy Guidelines for Statutory Bodies
General Trust Guide FP-4.0
Public Trustee Delegations of Authority

12.2 Appendices

Appendix 1 - Patient Authority
Appendix 2 - Pro-Forma Letter to Patients
(NAME OF HEALTH FACILITY)
(NAME OF HOSPITAL AND HEALTH SERVICE)

AUTHORITY OF PATIENT WITH MONIES HELD IN THE
PATIENT FIDUCIARY FUND

I, ________________________________, being a patient/resident of (name of health facility)

Hereby:

1. Authorise any and all interest earned from monies held in my name in the Patient
Fiduciary Fund of (name of health facility) to be placed in the Patient Amenities
Account. I have through this authority effectively waived any right to interest earned from
monies held in my name in the Patient Fiduciary Fund of (name of health facility). I
acknowledge the Health Service Directive – Trust and Fiduciary Funds – Administration
of Patient Fiduciary and General Trust Monies requires the monies in the Patient
Amenities Accounts of (name of health facility) be utilised for the benefit of all patients in
(name of health facility or part of health facility).

2. Authorise (name of health facility) to deduct the applicable fees and charges as
prescribed by the relevant legislation or otherwise for the duration of my stay at (name of
health facility) from funds held in my name in the Patient Fiduciary Fund of (name of
health facility).* (Cross out and initial if inapplicable).

3. Authorise (name of health facility) to act as my agent in collecting any pension due to
me and placing the same in my account in the Patient Fiduciary Fund.* (Cross out and
initial if inapplicable).

4. Authorise (name of health facility) to recover any amount overdrawn by myself and I
agree to reimburse the same to (name of health facility) for the amount overdrawn by
myself.

5. Acknowledge that I have been provided with a copy of this authority.

_ __________________________________________
Signature of patient/resident or authorised representative
Date:       /     /

OR

(name of patient) ______________________________________ patient by his duly constituted
attorney/administrator appointed under the Power of Attorney Act 1998 (Qld) or Guardianship
and Administration Act 2000 (Qld).

(name of attorney/administrator) ______________________________________

(signature of attorney/administrator) ______________________________

Witnessed and accepted on behalf of (name of health facility) by:

____________________________________  ______________________________