

# Managing & Safeguarding your Credit Union Account

A guide for credit union members on how to manage and safeguard your funds throughout your credit union membership

May 2020  
ROI



# How This Guide Can Help You...

1. Introduction
2. Managing your credit union account
3. Being aware of financial abuse
4. What happens if I need assistance to manage my account?
5. Planning Ahead: What happens to my money in the event of my death?
6. Useful resources and contacts

# Introduction

The purpose of this guide is to provide you with insight into how best to safeguard the funds in your credit union account. Regardless of the amount of your savings, all members should be aware of the methods of how to best manage their money, as well as how to protect and safeguard their money from financial abuse and fraud.

All persons are potentially vulnerable to financial abuse, but this is particularly the case where you are dependent on another person to do your day-to-day transactions, owing to a physical or mental incapacity as a result of an illness, a learning disability, a bereavement, or other circumstances where you need the help of another to take care of your money. In particular, during the Covid-19 restrictions, members may be cocooning and so are not in a position to leave their home to visit the credit union. Such members may find themselves relying on another person to assist them in managing their money at this time. It may be a temporary reliance, but nonetheless, members must feel in control of their own money at all times.



# Managing your credit union account

The Operating Principles of the credit union prioritise the economic and social well-being of all members through their vision of social justice, and wider benefit of this to the local community. Credit unions are highly aware of the need to safeguard all members, especially those who find themselves in a vulnerable situation.

If you need help on any matter, the credit union staff will be happy to assist you. If you need more time when transacting, or if you wish to discuss a matter in confidence, the staff will be happy to engage with you on the best solutions to managing your account and circumventing any challenges that may arise.

You may wish to discuss access to your account, insurances on your account, a possible loan, or creating or updating a nomination on your account. In particular, if you are vulnerable or concerned in relation to any of the above, please do not hesitate to contact the credit union. Even if you are cocooning during Covid-19 restrictions, the credit union may be able to remotely provide the service you require.

If you need to contact your credit union to discuss any matter, you can find their details on our CU Locator on <https://www.creditunion.ie/credit-union-locator/>.

Once the credit union is made aware of the circumstances involved, we will do everything possible to ensure that you continue to be in control of your credit union affairs, and that your funds are well-safeguarded.

# Being Aware of Financial Abuse

According to the Health Service Executive (HSE), financial abuse “includes theft, fraud, exploitation; pressure in connection with wills, property, inheritance or financial transactions; or the misuse or misappropriation of property, possessions or benefits.”

## Examples of financial abuse

- » Theft of money;
- » The use of another person’s identity in relation to credit and bank cards;
- » Forging someone else’s signature;
- » Use of counterfeit cheques or being tricked into signing blank cheques.
- » It can also take the form of harmful behaviour, for example:
  - o Being pressured to sign documents or change your will;
  - o Threatening to withdraw care unless money or property is provided.
- » Abusing a third party authority or general power of attorney, by acting outside of the authorised powers or by continuing to transact where the member has lost their mental capacity;
- » Not contributing to the household expenses even though they share the house with you and use household utilities such as heating, water, electricity, phone and so on;
- » Making decisions about how to spend your money without consulting you;
- » Putting undue influence upon you to sign documents you do not understand such as a deed, a power of attorney or a will. Undue influence may take the form of deception, coercion or pressure. A person may put undue influence on you to: - make or change your will or nomination; - invest or take out money; - sell your personal property; or - buy alcohol or drugs. There are many financial abuses that are also crimes. These are examples of crimes that may be committed by people we know and trust.

- » Opening a bank account in your name without your knowledge or consent;
- » Using counterfeit cheques to withdraw money from your account.

### **How can the credit union help me protect myself from financial abuse?**

As mentioned above, if you have any concerns that you are the subject of financial abuse, the credit union are happy to assist you in dealing with this very serious issue, in whatever way we can.

We are very aware of the need to safeguard your money, so if there are red flags in relation to financial abuse, the credit union will act quickly and sensitively.

### **What will my credit union do if I am concerned about financial abuse?**

- » The staff will be happy to meet with you privately to discuss your concerns, and will try to find a solution with you to the problem. If you are cocooning, the staff can make alternative arrangements.
- » If staff believe that you may not be acting of your own free will, they may ask to speak to you alone, and can take any instructions from you regarding your account.
- » If there is another person putting pressure on you to your withdraw money, the credit union can help you circumvent the transaction in a sensitive way which protects you and protects your money.
- » If staff suspect financial abuse, they will discuss a number of options with you in how to deal with it:
  - o They may contact you to verify your authority or to discuss any recent changes in transactions on your account.
  - o They may seek your permission to contact other parties to help you such as your solicitor, the Health Service Executive Safeguarding Office, a family member, or a trusted friend, An Garda Síochána or the Decision Support Service.

It is open to you to contact any of the above parties at any time, but the credit union is happy to contact them on your behalf if you so wish.

# What happens if I need assistance to manage my account?

As a general rule, where a member is incapable of managing their own affairs, the credit union is committed to ensuring that this member's funds are protected from interference, and we take our duty of care to protect the funds of the member very seriously.

Please come and speak to us if you have any questions or concerns in relation to the operation of your account in the event that you lose the mental capacity to manage your account.

Sometimes you may need assistance in managing your account. As such, the credit union can discuss options with you to plan ahead. These options might look at the following:

- a) Set up a third-party authority
- b) Set up a power of attorney
- c) Ward of Court
- d) Other options if you lose your mental capacity

## a) Creating a third-party authority

A third-party authority lets you select someone to do day-to-day transactions on your account. If your relationship with that person changes, you can cancel the authority and they will no longer be able to access your money.

A specific form is required to be completed and signed and will remain in place for the period recorded on the form. You will need to specify who the third party is, their relationship to you, how much you wish them to withdraw, and how often this withdrawal should occur. The credit union will adhere to your wishes, and only permit withdrawals as instructed by you. If you change your mind at any time and no longer need the third party authority to be in place, let us know and we will stop third party access to your account.

If you are interested in setting up a third-party authority, check with credit union staff. They will discuss your wishes and ensure that these wishes are fulfilled.

*Please note that the authority will be revoked (cancelled) if you lose mental capacity.*

## **b) Creating a power of attorney**

A power of attorney is a legal arrangement that permits another person to act for you in matters such as financial matters. This person is called an attorney. They should be someone you know you can trust to act on your behalf and to follow your wishes.

There are two types of power of attorney: general and enduring.

### » **General power of attorney**

A general power of attorney allows you to give another person the power to act for you while you have the capacity to manage your own affairs. You can let them act in general or for a specific purpose. This can be useful if, for example, you are travelling for long periods of time, or are house-bound due to a physical incapacity. However, if you no longer have the mental capacity to manage your own affairs, a general power of attorney is no longer valid. If you decide to set up a general power of attorney, make sure there is someone else you trust who can tell the credit union the general power of attorney is no longer valid.

### » **Enduring power of attorney**

An enduring power of attorney is put in place when you are still able to manage your own affairs, but it only comes into effect when you can no longer manage your own affairs. If you no longer have the mental capacity to manage your banking, the attorney you appointed must apply to the courts to have the enduring power of attorney registered.

If you think a general or enduring power of attorney is the right way for you to manage your finances, talk to your solicitor.

## **c) Ward of Court**

Where a person loses their mental capacity but there is no enduring power of attorney in place, family members or other persons close to them may apply to the High Court to make them a ward of court. This procedure means that the Courts must be satisfied that the person can no longer make decisions on their own. If this is accepted by the Courts, the person is deemed to be a 'Ward of Court' and a Committee of the Ward will be appointed to manage the person's affairs. This Committee is likely to be the people applying to the Court on behalf of the person. If the Court approves the application, the Committee must get the Court's permission in order to make decisions for the person. This process results in a Court Order being made.

The Committee will then be required to present the Court Order to the credit union in order to get access to the member's funds.

#### **d) How can the credit union help if I lose my mental capacity and do not have an enduring power of attorney or ward of court in place?**

If it becomes clear to you that you are losing your capacity through Dementia or Alzheimer's, or any other condition, the credit union will do all it can to enable you to continue transacting on your account for as long as possible.

Where it transpires that you are no longer in a position to manage your own account, the credit union will work with your family or carers, or other persons helping you to ensure that only transactions that are in your best interests are carried out on your account.

As mentioned earlier, if there is a general power of attorney or a third party authority in place, this will be deemed to have expired, and any persons previously permitted to withdraw on your account will no longer have access to the funds.

If there is an enduring power of attorney in place, the credit union will seek evidence that it has been registered and that the power to manage your affairs is contained in the enduring power of attorney document before allowing the attorney to withdraw on your account.

If there are no arrangements in place to manage the account in the event of your mental incapacity, section 24 of the Credit Union Act 1997 (as amended) will come into effect. This piece of legislation provides that where a person loses their mental capacity, and where there is no enduring power of attorney in place, any person claiming through the member, may make an application to the board of directors of the credit union ("the Board") to carry out a transaction on behalf of that member. The application for a withdrawal may be permitted by the Board if they are satisfied that the transaction is being carried out in the member's best interests (such as to pay for health expenses, nursing home fees, personal welfare expenses, etc.).

The person applying for the transaction will be required to sign a statement confirming *(1) that they understand their duty to use the monies in the best interests of the member; (2) that they are aware they may incur civil or criminal liability if the monies are misapplied; and (3) that they are not aware of any other person who is legally entitled to receive the monies.* Subsequent to the transaction, this person must sign a receipt and indemnity form.

#### **Change in the mental health legislation and services**

New legislation is coming in which will change the way that adults who have difficulty making decisions without help are supported. The Decision Support Service has been set up at the Mental Health Commission, and when the legislation is introduced, other arrangements can be put in place to replace the Ward of Court application. You can find information about the Decision Support Service on the website of the Mental Health Commission at [www.mhcirl.ie/DSS](http://www.mhcirl.ie/DSS).

# Planning Ahead: What happens to my money in the event of my death?

## a) Make a nomination

If you are 16 years and over and you wish for your credit union funds to go to your family or any other person upon your death, you can fill out a nomination form. The credit union is the only financial services provider to enable you to nominate your property held in the credit union separate to your estate. The form must be signed by yourself and delivered to the credit union within your lifetime.

The maximum amount you can nominate is €23,000. If your account holds more than this amount on the date of death, the monies in excess of the €23,000 will go into the deceased estate.

There is no maximum amount of nominees, however, if there is more than one nominee, it is advised that the nomination form specifies what percentage of the credit union monies should be given to each nominee – for instance a 50% share for two nominees, or a 25% share for four nominees, or 50% for a spouse and 10% for each of your five children, etc.

Similarly, it might be noted that only ‘a person or persons’ may be nominated, which means that a charity, local church, etc. may not be nominated.

Factors which can affect the validity of a nomination:

1. Where the member gets married after making the nomination, the nomination will become invalid.
2. Where the nominee dies before the member, and where no new nomination to another person has been made, the nomination will be revoked (cancelled).
3. Where the nomination is not signed properly, or if it doesn't reach the credit union within your lifetime, it will be deemed invalid.
4. A nomination made to a company or charity will be deemed invalid.
5. The completion of a new nomination, will revoke the previous nomination.

6. A nomination can only be made on a sole account. This is because the monies in a joint account are owned by both joint account holders and so when one person on a joint account dies, the other person receives all the monies in the joint account.
7. Please note that a Will cannot revoke a nomination as it is deemed a separate legal document.

### **b) What happens if there is no nomination on my account, or if it becomes invalid?**

If you do not have a nomination in place, or your nomination becomes invalid for one of the reasons specified below, the “small payments rule” comes into operation.

This rule states that where there is no nomination, and where the amount in the member’s account does not exceed €15,000, this money can be paid to persons that the Board believes to be legally entitled to it, such as a spouse or children, or a civil partner, for instance.

Where there are no such persons or where there is an amount of money in the account which exceeds €15,000, the credit union will need to pay the monies into the deceased estate.

### **c) Think Ahead Form**

‘Think Ahead’ is an Irish Hospice Foundation programme. It provides a guide to members of the public to help you discuss and record your preferences in the event of an emergency, serious illness, or death. While it is the only place you can record your healthcare instructions, it also allows you to look at your finances and consider what should happen in the event of your incapacity or death. For more information, please see:

<https://hospicefoundation.ie/programmes/public-awareness/think-ahead/what-is-think-ahead/>.



# Other organisations that can assist you with your money

## Useful resources and contacts

If you, or someone you know has been the victim of abuse, whether recently or in the past, or if you are the relative of an individual this has happened to:

- » Report the matter directly to the Garda Síochána on '999' or '112'
- » If you see something, say something OR if you are an adult at risk of harm and in need of protection, contact the HSE Safeguarding and Protection Teams on the following numbers:

HSE SAFEGUARDING AND PROTECTION TEAMS		
AREAS COVERED	ADDRESS & TELEPHONE NUMBERS	EMAIL ADDRESSES
Kildare, West Wicklow, Dublin West, Dublin South City, Dublin South West	Beech House, 101-102 Naas Business Park, Naas, Co. Kildare Telephone: 045 92 0410	safeguarding.CHO7@hse.ie
Wicklow, Dun Laoghaire and Dublin South East	Ballinkeer Health Centre, Ballinkeer Avenue, Ballinkeer, Dublin 16. Telephone: 01 216 4511	safeguarding.cho6@hse.ie
South Tipperary, Carlow, Kilkenny, Waterford, Wexford	HSE Offices, Dublin Road, Lacken, Kilkenny, Co. Kilkenny Telephone: 056 778 4325	safeguarding.cho5@hse.ie
Kerry and Cork	St. Finbarr's Hospital, Douglas Road, Cork Telephone: 021 492 3967	safeguarding.cho4@hse.ie
Clare, Limerick, North Tipperary and East Limerick	Tyone Health Centre, Tyone, Nenagh, Co. Tipperary Telephone: 067 46 470	safeguarding.cho3@hse.ie
Galway, Roscommon and Mayo	La Nua, Ballybane, Castlepark Road, Co. Galway Telephone: 091 74 8432	safeguarding.cho2@hse.ie
Donegal, Sligo, Leitrim, Cavan and Monaghan	Community Health Care Organisation Area 1, Ballyshannon Health Campus, An Clochar, Ballyshannon, Co. Donegal. Telephone: 071 983 4660	safeguarding.cho1@hse.ie
Laois, Offaly, Longford, Westmeath, Louth and Meath	Ashbourne Primary Care Centre, Declan Street, Ashbourne, Co. Meath. Telephone: 01 691 4632	safeguarding.cho8@hse.ie
Dublin North, Dublin North Central and Dublin North West.	St. Mary Hospital, Phoenix Park, Dublin 20. Telephone: 01 625 0447	safeguarding.cho9@hse.ie
HSE Information Line	Monday to Saturday, 8am-8pm Call Save: 1850 24 1850	info@hse.ie

#### OTHER USEFUL CONTACTS

	ADDRESS & TELEPHONE NUMBERS	WEBSITE
<b>MENTAL HEALTH IRELAND</b>	1 - 4 Adelaide Road, Glasthule, Co Dublin. Telephone: 01 284 1166	<a href="http://www.mentalhealthireland.ie">www.mentalhealthireland.ie</a>
<b>DEMENTIA AWARENESS</b>	Freephone the helpline on 1800 341 341	<a href="http://www.understandtogether.ie">www.understandtogether.ie</a>
<b>JAM CARD</b>	NOW Group Head Office, 428 Springfield Road, Belfast, BT12 7DU. Tel: 0044 28 9043 6400	<a href="http://www.jamcard.org">www.jamcard.org</a>
<b>SAGE ADVOCACY</b>	Information and Support Rapid Response Service. Tel: 1850 71 9400	<a href="http://www.sageadvocacy.ie">www.sageadvocacy.ie</a>
<b>THE IRISH HOSPICE FOUNDATION - THINK AHEAD</b>	The Irish Hospice Foundation, Morrison Chambers, (Floor 4), 32 Nassau Street, Dublin 2. Telephone: 01-6793188	<a href="http://www.hospicefoundation.ie/programmes/public-awareness/think-ahead">www.hospicefoundation.ie/programmes/public-awareness/think-ahead</a>



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