

## SCHEDULE 2 MANAGEMENT OF ESTATE OF ADULT

### *Powers relating to investment and carrying on of business by guardian*

- 5 (1) Subject to the following provisions of this paragraph, a guardian with powers relating to the property or financial affairs of the adult shall be entitled—
- (a) after obtaining and considering proper advice, to retain any existing investment of the adult;
  - (b) to use the adult's estate to make new investments in accordance with the management plan prepared under paragraph 1 or with the consent of the Public Guardian.
- (2) For the purpose of sub-paragraph (1)—
- (a) proper advice is the advice of a person authorised to carry on investment business in the United Kingdom for the purposes of the Financial Services Act 1986 (c. 60) who is not the guardian or any person who is an employer, employee or business partner of the guardian; and
  - (b) the advice must be given or subsequently confirmed in writing.
- (3) The guardian shall keep every investment under review and in doing so shall have regard to the following principles—
- (a) that the investment must be prudent;
  - (b) that there must be diversification of investments; and
  - (c) that the investment must be suitable for the adult's estate.
- (4) The Public Guardian may at any time direct the guardian to realise any investment.
- (5) The guardian may, subject to any direction given by the Public Guardian, carry on any business of the adult.
- (6) Any decision by the Public Guardian—
- (a) under sub-paragraph (4) as to directing the guardian to realise investments;
  - (b) under sub-paragraph (5) as to giving directions to the guardian in carrying on the business of the adult,
- may be appealed to the sheriff, whose decision shall be final.