

Financial management

Review or revoke financial management orders

The following information explains how NCAT's Guardianship Division conducts hearings for the review or revocation of financial management orders.

About NCAT's Guardianship Division

The NSW Civil and Administrative Tribunal appoints Tribunal Members on the basis of their expertise. In NCAT's Guardianship Division there are three types of Tribunal Members.

- **Senior Members (Legal)** who are Australian lawyers of at least 7 years.
- **Senior Members (Professional)** who are persons with special knowledge, skill or expertise and have experience in assessing or treating persons with disabilities.
- **General Members (Community)** who are persons with special knowledge, skill or expertise and have professional or personal experience with people.

An application to review or revoke a financial management order may be heard by one, two or three Tribunal Members.

When does NCAT review a financial management order?

Most financial management orders are not automatically reviewed by NCAT.

In some circumstances, NCAT can make an order for a specific length of time. A review hearing will be held automatically near the end of the period of the order. A decision will be made as to whether a further order is needed.

Revoking a financial management order

NCAT may revoke a financial management order only if:

- The person who has a financial manager is now able to manage their own finances; or
- NCAT is satisfied that it would be in the best interests of the person who has a financial manager to revoke the order.

Requested reviews

An application can be made to NCAT's Guardianship Division to have the financial manager replaced, if an appointed financial manager is no longer willing or able to continue as manager, or someone believes that the appointed financial manager is not acting in the best interests of the person whose finances are being managed. In this case, the person's finances would continue to be managed but an alternative financial manager will be appointed.

NCAT can refuse to hear an application to review or revoke a financial management order. This may happen if the application does not provide grounds to warrant a review or NCAT has previously reviewed or heard an application to revoke the financial management order.

Difference between review and appeal

A requested review is not the same as an appeal. NCAT can hold a requested review hearing if there is new information to consider. In a review, the original decision will not be examined. Any appeal must be made to the Appeal Panel of NCAT or the Supreme Court.

What will happen at the review?

It is usually necessary to hold another hearing. In some cases, the hearing may be conducted by phone. The review is held in a similar way to the original hearing but the information being sought will be different depending on the nature of the application.

This application should be supported by current evidence from professionals who have assessed the person and believe that the person can now manage his or her own finances.

There must be written evidence explaining why a revocation of the order would be in the best interests of the person whose finances are being managed. Information must be provided about what, if any, arrangements are or could be put in place to assist the person to manage their own finances if the financial management order is revoked.



Parties to the review of a financial management order

The *Guardianship Act 1987* defines the parties to the review of a financial management order as:

- the person the current order is about
- the person, if any, who requested the order to be reviewed
- the spouse, if any, of the person the order is about
- the carer, if any, of the person the order is about (excluding paid carers)
- the current financial manager
- the NSW Trustee & Guardian
- a person appointed under a power of attorney
- any person NCAT has joined as a party.

Representation

Can I have someone represent me?

NCAT will conduct the hearing with as little formality as possible. Parties to the application can be represented by a lawyer or other person but usually this is not necessary. If you would like to have a legal or other representative you must get NCAT's approval.

How do I request representation?

You should make this request in writing to NCAT as soon as possible – at least 5 working days before the hearing. The request should include the reasons why you want to be represented.

NCAT will make its decision about whether or not to grant leave for legal representation before the hearing date or at the beginning of the hearing.

Tribunal decisions

What decisions can NCAT make?

NCAT is limited in the decisions it can make when considering an application to review a financial management order.

NCAT may decide that the existing financial management order should stay in place, or:

- if satisfied that the person is now able to manage their finances, revoke the order
- if satisfied that appropriate arrangements are now in place to manage the person's finances and it is in their best interests,
- if there is no continuing need for a time limited financial management order, NCAT can decide not to make a further order.
- if an appointed financial manager is no longer willing or able to continue as manager or it is in the best interests of the person whose finances are being managed, NCAT can replace the manager with another financial manager.

When will I know the outcome?

NCAT will usually tell you its decision at the end of the hearing. A written order and reasons for decision will be sent to the parties at a later date. Not all people who attend the hearing are parties, so not everyone will be given a copy of the order and reasons for decision.

What if I disagree with the decision?

If you are a party to the hearing and you disagree with the decision, you may be able to appeal to the NCAT Appeal Panel or the NSW Supreme Court. For more information refer to the Guardianship Division's *Reviews and Appeals* fact sheet.

Contact NCAT

1300 006 228 | www.ncat.nsw.gov.au

Interpreter Service (TIS) 13 14 50

National Relay Service for TTY users 13 36 77

For more information and assistance visit the NCAT website or contact NCAT's Guardianship Division on (02) 9556 7600 or 1300 006 228.