

## Financial management

### What happens after the hearing?

The following information explains what happens after NCAT's Guardianship Division makes orders for financial management under the *Guardianship Act 1987*.

### Financial management orders

At the end of the hearing, NCAT will usually tell you what decision it has made. NCAT can make:

- A financial management order only
- A guardianship and financial management order
- A guardianship order only.

Sometimes NCAT will not make an order. This may be because the problems that led to the application have been resolved, or NCAT decides that the person does not need a guardian or financial manager.

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### Decisions made by the Tribunal are legally binding

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#### Who receives a copy of the orders?

Copies of the financial management order and reasons for decision will be sent after the hearing. These will be sent to:

- The person who the order is about
- The private financial manager, if one is appointed
- The NSW Trustee
- The applicant
- The person appointed by an enduring power of attorney, if any
- Any other parties
- Any other people or organisations NCAT considers appropriate.

#### What will the financial management order tell you?

When NCAT makes a financial management order it will state the name of the financial manager. This will either be:

- a private person such as a friend or relative whose actions will be authorised and, sometimes, directed by the NSW Trustee & Guardian, or
- the NSW Trustee & Guardian.

### Interim management orders

In emergencies and other special circumstances NCAT may make an interim financial management order for up to 6 months while more information is collected and relevant people contacted. Another hearing will be held before the interim order expires. At this hearing, NCAT will decide if another order is necessary.

### NSW Trustee & Guardian

The NSW Trustee & Guardian manages the financial affairs of people who cannot manage on their own, and supervises private financial managers.

When appointed, the NSW Trustee ensures that the person's financial affairs are managed to best meet their needs. The person's financial resources and current and long term needs are taken into account. Whenever possible, the views of the person and close family members are sought before major decisions are made.

A representative from the NSW Trustee will contact the person the order is about and/or family members, friends or service providers. They will set up suitable arrangements to manage the person's affairs.

After the order is made, anyone involved with the person's affairs, including friends, family and service providers, can make direct contact with the NSW Trustee & Guardian on **1300 360 466**.

### Private financial managers

NCAT may appoint a private person to manage the financial affairs of the person the order is about.

If NCAT makes an order appointing you as financial manager, you will receive a copy of the order. You will then need to contact the NSW Trustee & Guardian to obtain your Directions and Authority Document.

The NSW Trustee interacts with private financial managers in four main ways.

1. The NSW Trustee & Guardian decides what powers the manager has. These are set out in an estate management plan called the 'Directions and Authority' document. If the manager wants to deal



with the person's finances in ways not authorised or directed, they must get the NSW Trustee & Guardian's approval.

2. The manager must usually lodge security with the NSW Trustee & Guardian, for example the title deed of the house of the person whose estate they are managing.
3. The manager must usually lodge accounts each year with the NSW Trustee & Guardian to show that the person's finances are being properly managed.

The NSW Trustee may arrange for an authorised visitor to visit the protected person. The authorised visitor can make suggestions about spending money to benefit the person.

The NSW Trustee encourages financial managers to think about what will benefit the person.

Financial manager should generally act gratuitously. Financial managers may not be reimbursed for costs nor seek remuneration without the approval of the NSW Trustee & Guardian or the Supreme Court. NCAT cannot authorise the payment of costs or remuneration to a financial manager.

For more information about the role of a private financial manager, you can call the NSW Trustee & Guardian on **1300 320 320**. Or you can visit the *Private Managers* section of their website at [www.tag.nsw.gov.au](http://www.tag.nsw.gov.au).

## Fees

The NSW Trustee will usually charge fees to the person's estate for their financial management services. It will also charge fees when a private manager is appointed.

For more information about fees, you can call the NSW Trustee & Guardian on **1300 320 320**. Or you can visit the *Fees* section of their website [www.tag.nsw.gov.au](http://www.tag.nsw.gov.au).

## The role of the protected person

If the person can express views, they should be consulted by the manager and have some say in the management of their finances after a management order is made.

Sometimes NCAT excludes part of the person's finances from the order. If this is the case, the person the order is about remains responsible for part of their finances.

## Can NCAT review a financial management order?

Most financial management orders operate indefinitely. NCAT has the power to review financial management orders in the following circumstances:

- If it is asked to revoke or vary the order because there is evidence that the person has regained capacity to manage their affairs
- If it has been asked to revoke or vary the order, including the replacement of the financial manager because it is in the best interests of the person to do so
- If it says the financial management order must be reviewed.

## 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](http://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