

Information financial management and guardianship - reviews and appeals

There are different ways in which guardianship and financial management orders or decisions made by the Guardianship Tribunal can be reviewed or appealed.

A review is different from an appeal. A review is conducted by the Guardianship Tribunal whereas an appeal is conducted by either the Supreme Court or the Administrative Decisions Tribunal of NSW. More information about the differences between appeals and reviews is set out below.

Reviews

Reviews of guardianship orders

There are three types of review of a guardianship order:

1. Statutory reviews

The Guardianship Tribunal will automatically review a guardianship order near the end of the period of the order.

2. Requested reviews

The Guardianship Tribunal may also review a guardianship order if it receives a request for a review. The request must be made in writing by a person who has a genuine concern for the person under guardianship. The Tribunal will only review the order in response to the request if:

- There is new relevant information which was not reasonably available at the original hearing which means that the guardianship order should be reviewed; or
- There is a need for new functions to be given to the appointed guardian; or
- The guardianship order is not working in the best interests of the person under guardianship; or
- The circumstances of the person under guardianship have substantially changed since the guardianship order was made which means a review is needed; or
- There is no further need for a guardian.

3. 'Own motion' reviews

The Guardianship Tribunal can decide at any time that a review of a guardianship order is needed if it considers that this would be in the best interests of the person under guardianship.

At a guardianship review hearing, the Tribunal will consider evidence from those who are involved in the life of the person under guardianship, including family members and professionals.

Reviews of financial management orders

There are three types of review of a financial management order:

1. Statutory reviews

The Tribunal can state in a financial management order that the order will be reviewed in a specified period of time.

2. Requested reviews

Anyone with a genuine concern for the welfare of a person under financial management can request a review to revoke or vary the order. The Tribunal may refuse to deal with the application to revoke or vary the order if:

- There are no grounds in the application to warrant a review; or
- The order has been reviewed before.

3. 'Own motion' reviews

The Guardianship Tribunal decides on its own motion that a review should be conducted.

At a financial management review hearing, the Tribunal will consider evidence from professionals and others involved in the life of the person whose affairs are under financial management.

The Guardianship Tribunal can only revoke a financial management order if it is satisfied that:

- The protected person is now able to manage their own financial affairs; or
- It would be in the best interests for the protected person to have the order revoked.

Reviews of the appointment of a financial manager

The Guardianship Tribunal may also review the appointment of a particular financial manager rather than the financial management order itself. The application may be made by anyone who has a genuine concern for the protected person.

There are two types of review of the appointment of a financial manager:

1. Requested reviews

The Tribunal must review the appointment of a particular financial manager if requested to do so by the NSW Trustee or any person who has a genuine concern for the protected person.

2. 'Own motion' reviews

The Guardianship Tribunal can decide at any time that a review of the appointment of a particular financial

manager is needed.

The Tribunal may refuse a request to review the appointment of a particular financial manager if:

- There are no grounds in the request which warrant a review; or
- The appointment has been reviewed before by the Tribunal.

The Guardianship Tribunal can only revoke a financial management order if it is satisfied that:

- The appointed manager seeks revocation; or
- It would be in the best interests of the protected person to have the appointment revoked; or
- The financial management order itself has been revoked.

Appeals

The Guardianship Tribunal recommends that any person who is considering an appeal against one of its decisions should seek independent legal advice.

Appeals to the Supreme Court of New South Wales

Any party to any proceeding before the Guardianship Tribunal may appeal against the Tribunal's decision to the Supreme Court of New South Wales.

Appeals may be made on:

- A question of law
- On any other question only if the Supreme Court grants leave for the Appeal to be made on those grounds.

Appeals must be lodged within:

- 28 days after the decision was made, if it is a decision made by fewer than three Tribunal members
- 28 days of the day that the person who is appealing received the written Reasons for Decision made by the Tribunal
- Any other time as allowed by the Supreme Court.

Information about appeals to the Supreme Court of New South Wales can be obtained from:

Supreme Court of New South Wales

Equity Division Protective
Queens Square
Sydney NSW 2000

Telephone (02) 9230 8733
Facsimile (02) 9230 8234
Website www.lawlink.nsw.gov.au/sc

Appeals to the Administrative Decisions Tribunal

Appeals can be made to the Administrative Decisions Tribunal of NSW under s67A of the *Guardianship Act 1987* against certain decisions of the Guardianship Tribunal, including decisions to make a guardianship order or a financial management order or decisions made on a review of a guardianship order or financial management order.

Appeals can be made by a person who was a party to the proceedings in which the appealed decision was made.

Appeals may be made on:

- A question of law
- On any other grounds only if the Appeal Panel of the Administrative Decisions Tribunal grants leave for the appeal to be made on those grounds.

An appeal must be lodged:

- Within 28 days after the Guardianship Tribunal provides the person who is appealing with the written Reasons for Decision made by the Tribunal; or
- Within such further time as allowed by the Appeal Panel of the Administrative Decisions Tribunal.

Information about appeals to the Administrative Decisions Tribunal can be obtained from:

Administrative Decisions Tribunal

Level 15, 111 Elizabeth Street
Sydney NSW 2000

Telephone (02) 9223 4677
Facsimile (02) 9233 3283
Telephone typewriter (02) 9235 2674
Freecall 1800 060 410
Website www.lawlink.nsw.gov.au/adt

LawAccess NSW

Telephone 1300 888 529
Telephone typewriter 1300 889 529
Translating and Interpreter Service 131 450

For people from non-English speaking backgrounds, ask the interpreter to ring LawAccess NSW on your behalf.

Facsimile (02) 8833 3101
Website www.lawaccess.nsw.gov.au
Postal LawAccess NSW
PO Box 620
Parramatta NSW 2124

For more information contact

Guardianship Tribunal

Telephone (02) 9556 7600
Toll free 1800 463 928
Facsimile (02) 9555 9049
Telephone typewriter (02) 9556 7634
Email gt@gt.nsw.gov.au
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