

## **Information**

### **hearings of applications to review or revoke financial management orders**

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#### **What is the Guardianship Tribunal?**

The Guardianship Tribunal is a legal tribunal. Tribunal hearings are conducted by part time Tribunal members appointed by the Governor on the basis of their particular expertise. There are three categories of Tribunal member - legal, professional and community members. Legal members must be Australian lawyers of at least seven years standing. Professional members must be health or welfare professionals with experience assessing or treating people with disabilities. Community members must have professional or personal experience with people with disabilities. An application to review or revoke a financial management order may be heard by a one, two or three member tribunal.

#### **Revoking a financial management order**

The Guardianship Tribunal can revoke a financial management order only if:

- the person who has a financial manager is now able to manage their own financial affairs; or
- someone believes it would be in the best interests of the person who has a financial manager to revoke the order.

#### **When does the Guardianship Tribunal review a financial management order?**

Most financial management orders are not routinely reviewed by the Tribunal. In some circumstances, the Tribunal 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.

#### **Requested reviews**

An application can be made to the Tribunal to have the manager replaced, if an appointed

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 affairs are being managed. In this case, the person's affairs would continue to be managed but an alternative manager will be appointed.

The Tribunal 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 the Tribunal has previously reviewed or heard an application to revoke the order.

#### **Difference between review and appeal**

A requested review is not the same as an appeal. The Guardianship Tribunal can hold a requested review if there is new information to consider. In a review, the original decision will not be examined. Any appeal must be made to the Supreme Court or the Administrative Decisions Tribunal.

#### **What will happen at the review?**

It is usually necessary to hold another hearing, with everyone who is involved attending. In some cases, hearings can 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 must be supported by current evidence from professionals who have assessed the person and believe the person can now manage their own affairs.

There must be written evidence explaining why the revocation would be in the best interests of the person whose affairs are being managed. Information must be provided about what

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arrangements are in place to assist the person with their affairs if the order is revoked.

### **Can I have a lawyer there?**

The Tribunal will conduct the hearing with as little formality as possible. People do not usually ask to be represented by a lawyer. If you would like to have a legal or other representative attend the hearing, you must get the Tribunal's approval. Your representative should make this request in writing to the Tribunal as soon as possible - at least five working days before the hearing. The request should include the reasons you want to be represented. If this is done, the Tribunal will usually make its decision before the hearing date. Otherwise, it will make its decision at the beginning of the hearing. If you want to seek leave to be represented, phone the Tribunal for more information.

### **What decisions can the Tribunal make?**

The Tribunal is limited in the decisions it can make when considering an application to review or revoke a financial management order. The Tribunal may decide that the existing order should stay in place, or:

- if satisfied that the person is now able to manage their financial affairs, the order must be revoked
- if satisfied that appropriate arrangements are now in place to manage the person's affairs and it is in their best interests, the Tribunal can revoke the order
- if there is no continuing need for a time limited financial management order, the Tribunal 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 affairs are being managed, the Tribunal can replace the manager with another manager.

### **When will I know the outcome?**

The Tribunal will usually tell you their decision at the end of the hearing. Later, the Tribunal

will write an order or determination and the reasons for their decision. These will be sent to people who are parties to the hearing. Not all people who attend the hearing are parties, so not everyone will be given copies of the order or determination and reasons for decision.

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

- the person the current order is about
- the person, if any, who requested the order to be reviewed or revoked
- 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
- any person the Tribunal has joined as a party.

### **What if I disagree with the decision?**

If you are a party to the review hearing and you disagree with the decision made by the Guardianship Tribunal, you may be able to appeal to the Supreme Court or the Administrative Decisions Tribunal on a question of law. If you want to appeal the decision, you should seek independent legal advice. You must appeal within 28 days of receiving the order or determination and reasons for decision. The Supreme Court or the Administrative Decisions Tribunal may accept an appeal outside this time in some circumstances.

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### **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](mailto:gt@gt.nsw.gov.au)  
Website [www.gt.nsw.gov.au](http://www.gt.nsw.gov.au)

Level 3, 2a Rowntree Street, Balmain NSW 2041  
Postal address Locked Bag 9, Balmain NSW 2041