

Applying for an Appointment of a Financial Manager

A resource for people accessing NCAT's Guardianship tribunal services in NSW

Fact Sheet

This fact sheet answers some common questions about the role of a financial manager and applying to the New South Wales Civil and Administrative Tribunal (NCAT) to appoint a financial manager for someone.

Financial managers can make decisions for people who can't make decisions on their own

A financial manager is someone who can make decisions for someone who isn't able to make decisions on their own because they are suffering from a mental illness, dementia, intellectual disability or a brain injury. This is called a 'decision-making disability'.

A financial manager can make financial and legal decisions for a person with a decision-making disability such as paying bills, managing debt, operating bank accounts and buying and selling property.

A financial manager can't make personal and lifestyle decisions, such as where a person lives or what health care they need. These decisions are made by a guardian. See our guardianship factsheet for information about appointing a guardian.

NCAT can make financial management orders

NCAT is a tribunal that deals with different legal matters including financial management applications.

If you're worried an adult is not making reasonable judgments because of a decision-making disability and you think there is a need for a financial manager to be appointed, you can make an application to NCAT for someone to be appointed to this role.

At NCAT, a person called a 'member' decides the case and can make financial management orders.

Differences between a financial manager and guardian

Financial manager

- Makes financial and legal decisions on behalf of a person who cannot manage their own affairs;
- Does not make personal or lifestyle decisions such as where the person should live.

Guardian

Makes lifestyle and personal decisions on for a person who has a decision-making disability including:

- medical or dental treatments;
- where they live;
- the services they use; and
- other lifestyle matters.

When is a financial manager appointed?

Financial management orders can be made when arrangements with friends and family aren't working

Usually people with disabilities get help making decisions from friends, family members and/or social workers. Sometimes these sorts of arrangements don't work and can cause issues. NCAT may be able to make a financial order that sets up a formal arrangement for help making decisions. If a financial order is made, the person appointed as financial manager can make financial and legal decisions for the represented person.

All adults have the right to make their own decisions. People with a disability should be encouraged and supported to make decisions for themselves. Before appointing a financial manager, NCAT must be satisfied that the person is not able to manage their financial or legal affairs and it is in the person's best interests for someone else to do this for them.

NCAT can also make a financial management order to manage particular assets belonging to the person. For example, the person may be able to manage their day-to-day financial affairs but have difficulty managing a sale of a large property. The person the application is about must have assets in NSW for NCAT to make a financial management order.

There are certain factors NCAT looks at when making an order

- Whether the proposed financial manager is over 18;
- Whether the proposed financial manager is able to manage money;
- Whether the person the application is about can't manage their own financial affairs and needs someone else to do this for them;
- Whether there is any conflict of interest between the proposed financial manager and the person the application is about;
- Whether it is in the best interests of the person that a financial order be made;
- Whether there is a current power of attorney;
- Whether there is any risk to the person if a financial manager isn't appointed
 - e.g. has the person had difficulty in paying his or her bills? Is their power about to be cut off because they have not been paying their bills? Are they about to be evicted because they have difficulty in managing rental payments?
- The person's income, expenses and assets;
- Whether there are existing orders Supreme Court of NSW orders about the person's financial management.

What you need to include in the application form

If you want to make an application to NCAT, you'll need to complete the [Financial Management Application Form](#) found on the NCAT website.

In the application form you'll need to include:

- Evidence about the person's disability and capacity to make decisions. This can be a report, letter or a statutory declaration from a doctor, nurse, social worker, carer, lawyer or accountant. Health professionals may use a template [Health Professional Report Form](#) for their report;
- A statement from the person (if possible) about their inability to make decisions for themselves and what they think about having a financial manager;
- Why you think the person needs a financial manager;
- Details about the income, assets and liabilities of the person who the application is about;
- If the person already has a financial manager or attorney (under a power of attorney), a statement about why you think they should be replaced. A copy of any powers of attorney should be attached to the application.

It may also help to provide statements from family members or friends that support the application for a financial manager and/or a statement from the potential financial manager about their willingness and capacity to be a financial manager.

Lodging the application

Once you've completed the form, you need to lodge it with NCAT by sending it in the post, delivering it in person or via email with any medical reports or other documents you want to include.

By post:

NCAT Guardianship Division
PO Box K1026, Haymarket NSW 1240

In person:

Level 6, John Maddison Tower
86-90 Goulburn Street
Sydney NSW 2000

By Email:

gd@ncat.nsw.gov.au

You'll also need to send or deliver a copy of the application and any documents you're including to:

- **NSW Trustee and Guardian**
Postal Address: Locked Bag 5115, Parramatta NSW 2124
Fax: 02 8688 9793
Email: taggd@tag.nsw.gov.au
- The person the application is about; and
- Their wife/husband or partner, carer and current attorney appointed under a power of attorney.

Before lodging your application with NCAT you must make a copy of your application for your own records.

The NCAT hearing

At the hearing, NCAT will hear from the person who made the application, the person who the application is about and any other people who have provided statements/given reports as part of the application.

NCAT may also want to hear from the potential financial manager and family members of the person who the application is about. NCAT might also ask any of these people questions during the hearing to help them make a decision. NCAT might contact people by phone if they can't come to the hearing.

What happens after the hearing?

Usually the NCAT member will tell you the decision at the end of the hearing. The decision may be an order that a financial manager be appointed, or that the person the application is about doesn't have a disability or doesn't need a financial manager. NCAT will also decide how long the financial management order will last for – this is usually between 1-3 years.

NCAT will also send the written orders and reasons for the decision to everyone at a later date.

If you disagree with the financial management orders, you can appeal to the NCAT Appeal Panel or the Supreme Court of NSW. Appeals can only be lodged within a certain period of time from the date of the decision. Further information on appeals can be found on the NCAT website (see below).

Useful Resources

- NCAT website: www.ncat.nsw.gov.au
- NCAT factsheet on appointment of financial manager and / guardian:
http://www.ncat.nsw.gov.au/Documents/gd_information_appointment_financial_manager_and_or_guardian.pdf
- Information on appealing a decision of NCAT:
https://www.ncat.nsw.gov.au/Pages/ncat_decisions/appeals.aspx
- NSW Trustee and Guardian: <https://www.tag.nsw.gov.au/>
- Financial Management Application Form:
http://www.ncat.nsw.gov.au/Documents/gd_form_financial_management_application.pdf
- Health Professional Report Form:
http://www.ncat.nsw.gov.au/Documents/gd_form_health_professional_report_form.pdf