

Timetable for providing evidence

This fact sheet is about the *NCAT Procedural Direction 8 – Timetable for providing evidence in Guardianship Division proceedings*. It explains what a procedural direction is, when documents or other material (also called evidence) must be given to NCAT and parties involved in a case, and when additional (or further) evidence can be given.

What is a procedural direction?

A procedural direction is a written instruction from NCAT. It explains what parties involved in a case must do and when they must do it.

What is NCAT Procedural Direction 8?

NCAT Procedural Direction 8 explains when parties to certain types of proceedings in the Guardianship Division are required to give documents or other material to NCAT and to the other parties if they want that material considered as evidence in a case.

Who are the parties in a case?

A party is someone who has certain rights in a case such as the right to receive a notice of hearing and the right to receive documents or other material NCAT will consider in the case.

Parties include:

- the applicant (the person who made the application)
- the person the application is about
- other people who are parties under the *Guardianship Act*.

Read the fact sheet [Who is a party to proceedings in the Guardianship Division?](#) for more information.

What is evidence?

Evidence is information NCAT considers to make its decision in a case. Evidence can include medical reports, letters, statements, care and support information and financial records.

NCAT will only consider evidence that is relevant to the issues in the case.

When does NCAT Procedural Direction 8 apply?

Procedural Direction 8 applies to applications made to the Guardianship Division for:

- guardianship orders
- reviews of guardianship orders
- financial management orders
- reviews of financial management orders
- reviews of financial manager appointments
- reviews of enduring guardianship appointments
- reviews of enduring powers of attorney
- reviews of revocation of enduring powers of attorney.

NCAT Procedural Direction 8 does not apply if NCAT has made directions in your case about when documents or other material must be given to NCAT and the other parties.

Timetable for providing evidence

If you are the applicant

When you give your application to NCAT you must also give all the material you want NCAT to consider as evidence. This is called supporting evidence.

1. Within 7 days

You must give all other parties:

- a copy of the application
- all supporting evidence you gave to NCAT.



2. Within 14 days of receiving the application

The other parties must give:

- their evidence to NCAT
- their evidence to you and to any other party.

3. Within 7 days of receiving evidence from the other parties

You must give NCAT and all parties any evidence in reply (or 'reply evidence').

Reply evidence is evidence you give after you receive evidence from another party. It is used:

- to respond to what another party has said
- explain your position
- provide more detail about another party's evidence.

Reply evidence should only deal with issues raised by the other party's evidence. It should not include new or unrelated information.

If you are the person the application is about or you are another party

1. Within 7 days

The applicant must give you and all other parties:

- a copy of the application
- all supporting evidence the applicant gave to NCAT.

2. Within 14 days of receiving the application

You must give:

- your evidence to NCAT
- your evidence to the applicant and to any other parties.

Urgent applications

An application is **urgent** if it is listed for hearing within **28 days** of being made to NCAT.

If NCAT decides that an application is to be dealt with urgently, the timetable described in this fact sheet does not apply.

- The applicant must give the application and all supporting evidence to all other parties as soon as possible.

- All other parties must give their evidence to NCAT and to each other as soon as possible.

Providing evidence outside the timetable

In limited situations, you may give more evidence (called further evidence) outside the timetable.

This may be because the situation of the person the application is about has changed in a significant way, and the change is important to the decision NCAT must make.

For example, this might happen:

- where the person's ability to make decisions has improved or become worse;
- where the person lives, or the support the person receives, has changed;
- where the person's financial situation has changed in a way that is relevant to the case.

Further evidence must be given as soon as possible and no later than **21 days** before the hearing.

Reply evidence to further evidence must be given no later than **10 days** before the hearing.

What happens if the timetable is not followed?

If evidence is not given in line with the timetable NCAT may decide not to consider it.

However, NCAT may still decide to consider the evidence if it is in the interests of justice (fair in the circumstances).

Contact NCAT

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Interpreter Service (TIS) 13 14 50

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For more information and assistance visit the NCAT website or contact NCAT's Guardianship Division