

Guardianship

What happens after the hearing?

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

Guardianship orders

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

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

Decisions made by the Tribunal are legally binding

Who receives a copy of the orders?

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

- The person who the order is about
- The guardian, if one is appointed
- The applicant
- The Public Guardian
- Any other parties
- Any other people or organisations NCAT considers appropriate.

What will the guardianship order tell you?

If NCAT makes a guardianship order, it will state:

- The name of the guardian
- The decision making functions given to the guardian. These will usually be limited to decisions about matters such as where the person will live, what services they will receive or decisions about their health care and medical and dental treatment
- Any conditions that the guardian must observe
- Any recommendations NCAT makes

- how long the order will last
- if the order is a non-reviewable order.

How long will the guardianship order last?

The order will tell you how long it lasts. Most initial orders can be made for any period up to one year. However, if certain criteria are met, they may be made for up to three years. After they are reviewed most can be renewed for up to three years at a time. If certain criteria are met, the order may be renewed for up to five years.

NCAT may make a non-reviewable order if it determines that such an order is appropriate in the circumstances and is in the best interests of the person with a disability. This means that the order will lapse at the end of the time period specified in the order unless NCAT is asked to conduct a review. Anyone with a genuine concern for the welfare of the person can request a review.

Temporary orders can only be made for up to 30 days and are reviewed and renewed for a further 30 days if necessary. The Public Guardian must be appointed for all temporary orders.

Responsibilities of a guardian

NCAT makes guardianship orders to meet the needs of the person with the disability. Most guardians only need authority for certain kinds of decisions. If this is the case, a limited guardianship order will be made and the guardian's functions listed. Sometimes a guardian may be given full power to make decisions for the person. This is called a plenary order. These are very rare.

The order should restrict the rights and freedom of the person with the disability as little as possible. The guardian is usually required under the order to consult with the person with the disability if they have some capacity to understand and communicate and to consider their views.

If the guardian has any questions he or she can contact NCAT's Guardianship Division on (02) 9556 7600 or 1300 006 228.



What if the guardian needs guidance?

The person who has been appointed as guardian can apply to NCAT at any time for directions about how to do what the order says. This normally involves a hearing, and NCAT may then give directions to the guardian.

Private Guardian Support Unit

The NSW Public Guardian's Private Guardian Support Unit provides a free and confidential service to assist legally appointed guardians in their role. Contact the Unit on (02) 8688 6060 for more information.

NSW Public Guardian

Wherever possible, NCAT will attempt to appoint a relative or friend of the person to be their guardian. But in many cases, NCAT has to appoint the NSW Public Guardian.

The Public Guardian will be sent a copy of NCAT's order after the hearing. The Public Guardian's Office will then make contact with the person the order is about, and others who are closely involved. The Public Guardian will perform the functions of the guardian outlined in the order in the same way that any guardian would.

For more information, contact the Public Guardian on (02) 8688 2650 or 1300 360 466 or visit <https://www.tag.nsw.gov.au/public-guardian>.

Review of guardianship orders

Statutory Reviews

Unless NCAT states it does not intend to review an order, all the guardianship orders are reviewed.

The review will involve a hearing. Sometimes review hearings are conducted by phone and sometimes the person, their guardian and other interested people will be asked to attend.

At the review hearing, NCAT will consider:

- Whether there is any need to continue the order, whether the existing order should be renewed for a further period of up to three years (or five years if certain criteria are met).
- Whether any changes need to be made to the order.

Request for review

If anyone is concerned about how the guardianship order is working or how the guardian is performing their functions, they can request a review of the order.

NCAT can refuse a request to review a guardianship order. This may happen if the application does not disclose grounds that warrant a review or NCAT has previously reviewed the order.

Note – a review is not an appeal. If you are a party to the application and you disagree with the decision, you may appeal the decision to the NCAT Appeal Panel or to the 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

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.