



Review of an enduring power of attorney

GUARDIANSHIP DIVISION

Complete this form to apply to NCAT to review the making of or the operation and effect of an Enduring Power of Attorney. An Enduring Power of Attorney is a legal document where a person has appointed someone of their choice to manage their financial and legal affairs if they lose capacity.

Read the [Review of an Enduring Power of Attorney fact sheet](#) for more information about applying for a review and the Tribunal process.

IMPORTANT INFORMATION

- The NSW Trustee and Guardian is a statutory party to all reviews of an Enduring Power of Attorney.
- When lodging an application with NCAT **you must also send a copy of the application and any attachments to all parties** including the NSW Trustee and Guardian.
- For more information see the factsheets [Providing information to the Guardianship Division](#) and [Who is a party to proceedings in the Guardianship Division?](#)

Case Number

Office use only

1. PERSON THIS APPLICATION IS ABOUT

Provide details of the person who made the Enduring Power of Attorney. This person is known as 'the principal'.

A. PERSON'S NAME AND ADDRESS

Given names

Family name

Date of birth

Gender

Address

Contact details Daytime telephone

Mobile

Email

B. IS THIS THE PERSON'S CURRENT LOCATION?

☐ YES

☐ NO (provide current location below)

Address

Contact details Daytime telephone

Mobile

Email

C. WHAT TYPE OF ACCOMMODATION ARE THEY CURRENTLY IN?

☐ Own home

☐ Hospital

☐ Care facility or supported accommodation

☐ Home of friend or family member

☐ No fixed place of address

☐ Other

D. WHAT IS THE PERSON'S VIEW ABOUT THIS APPLICATION?

Have you told the person you are making this application? You should tell the person that you are making an application about them. Have you done this?

☐ **YES** ☐ **NO** (why not?)

Do they agree with the application being made? ☐ **YES** ☐ **NO** ☐ **DON'T KNOW**

E. WHY DO YOU THINK THE PERSON HAS A DECISION MAKING DISABILITY?

☐ Dementia ☐ Advanced Age ☐ Intellectual Disability ☐ Neurological ☐ Brain Injury
☐ Other (please specify)

Do you have any written evidence about the person's disability and their capacity to make decisions about lifestyle matters? For example, a report from a doctor or other health care professional. If yes, please attach.

☐ **YES** ☐ **NO** (why not?)

F. ASSISTANCE AT THE HEARING

Can the person attend the hearing in person?

☐ **YES** ☐ **NO** (why not?)

If the person cannot attend the hearing in person, can they participate by telephone or videoconference?

☐ **YES** ☐ **NO** (why not?)

Does the person need special assistance to participate in the hearing? For example, hearing loop or wheelchair access.

☐ **NO** ☐ **YES** (provide details)

Does the person use any form of Alternative and Augmentative Communication (AAC)? For example communication device, communication board or book, Key Word Sign

☐ **NO** ☐ **YES** (please specify)

Does the person identify as belonging to a specific ethnic, cultural or religious group?

☐ **NO** ☐ **YES** (please specify)

Does the person need an interpreter?

☐ **NO** ☐ **YES** (which language)

2. APPLICANT

Are you making this application about yourself?

☐ YES

☐ NO (provide your details below)

Given names

Family name

Relationship to person

Postal address

Contact details

Daytime telephone

Mobile

Email

☐ I agree to have NCAT notices and correspondence sent to my email address

By ticking this box you agree to receive the notice of hearing and other correspondence by email. Provide an email address that is accurate and checked regularly.

☐ I have read the [Review of an Enduring Power of Attorney](#) fact sheet

By ticking this box you agree that you understand your responsibilities as an applicant and are willing to continue in that role.

3. OTHER PARTIES

A. HAVE YOU SENT A COPY OF THIS APPLICATION TO THE NSW TRUSTEE AND GUARDIAN?

☐ NO

☐ YES

The NSW Trustee and Guardian is a statutory party to all NCAT Review of Enduring Power of Attorney applications.

You must send a copy of your completed application and any attachments to the NSW Trustee and Guardian at one of the following addresses.

Indicate which method you will use to send your completed application to the NSW Trustee and Guardian.

NSW Trustee and Guardian

☐ Email: taggd@tag.nsw.gov.au

☐ Post: Locked Bag 5115, Parramatta NSW 2124

B. PERSON/S APPOINTED AS ATTORNEY UNDER THE ENDURING POWER OF ATTORNEY

ATTORNEY 1:

Given names

Family name

Relationship to person

Postal Address

Contact details Daytime telephone

Mobile

Email

ATTORNEY 2:

Given names

Family name

Relationship to person

Postal Address

Contact details Daytime telephone

Mobile

Email

Note: If there are more than two attorneys attach their details to this application.

C. ACKNOWLEDGEMENT OF PARTIES

A 'party' is someone who has certain rights in the Tribunal proceedings, such as the right to receive a copy of the application and notice of hearing. All of the above people (including the person the application is about) are parties to the proceedings.

I understand and acknowledge that I will provide a copy of my completed application and any attachments to:

- ☐ **NSW Trustee and Guardian**
Email: taggd@tag.nsw.gov.au
Post: Locked Bag 5115, Parramatta NSW 2124
- ☐ **The person the application is about**
- ☐ **The person's attorney/s appointed under a Power of Attorney**

4. OTHER PEOPLE IN THE PERSON'S LIFE

A. DOES THE PERSON HAVE A SPOUSE? ☐ **NO** ☐ **YES** (provide details)

Given names

Family name

Postal Address

Contact details Daytime telephone

Mobile

Email

B. DOES THE PERSON HAVE A CARER? ☐ **NO** ☐ **YES** (provide details)

Given names

Family name

Postal Address

Contact details Daytime telephone

Mobile

Email

C. HAS THE PERSON APPOINTED AN ENDURING GUARDIAN OR HAS A COURT/TRIBUNAL APPOINTED A GUARDIAN?

☐ **NO** ☐ **YES**

If there is an enduring guardian appointment or guardianship order, attach a copy (or copies if more than one exists).

Given names

Family name

Postal Address

Contact details Daytime telephone

Mobile

Email

D. ARE THERE ANY OTHER PEOPLE IN THE PERSON'S LIFE?

Are there any other people in the person's life (social workers, doctors, family or friends) that could help NCAT make its decision. If yes, provide their full name, contact details (including phone number, address and/or email) and their relationship to the person this application is about.

You must include anyone who may disagree with the application. *Other people may not be parties but may apply to the Tribunal to be joined to this application if they have sufficient interest.*

5. DETAILS ABOUT THE ENDURING POWER OF ATTORNEY

Provide details about the Enduring Power of Attorney. Attach a copy of the Enduring Power of Attorney (or copies if more than one exists). You can attach additional information to this form if there is insufficient space.

A. DATE OF ENDURING POWER OF ATTORNEY?

B. ATTORNEY/S APPOINTED UNDER THE ENDURING POWER OF ATTORNEY

ATTORNEY 1:

Given names

Family name

Relationship to person

Postal Address

Contact details Daytime telephone

Mobile

Email

ATTORNEY 2:

Given names

Family name

Relationship to person

Postal Address

Contact details Daytime telephone

Mobile

Email

C. SUBSTITUTE ATTORNEY (IF ANY)

Given names

Family name

Relationship to person

Postal Address

Contact details Daytime telephone

Mobile

Email

D. PRESCRIBED WITNESS ON THE SECTION 19 CERTIFICATE

Provide details of the person who signed the Section 19 Certificate section of the Enduring Power of Attorney.

Given names

Family name

Occupation

Postal Address

Contact details Daytime telephone

Mobile

Email

E. HAS THE PERSON MADE ANY OTHER ENDURING POWER OF ATTORNEY?

☐ **NO** ☐ **YES** (provide details below)

Given names

Family name

Relationship to person

Postal Address

Contact details Daytime telephone

Mobile

Email

Note: If you want NCAT to review a new or previous enduring power of attorney you must submit an application form for each power of attorney. There is a separate form to [Review the revocation of an Enduring Power of Attorney](#).

6. NEED TO REVIEW THE ENDURING POWER OF ATTORNEY

A. WHAT TYPE OF ORDERS ARE YOU SEEKING?

☐ **Review of the making of the Enduring Power of Attorney**

Select the orders you want the Tribunal to make from the list below.

- ☐ The person did have the mental capacity to make the enduring power of attorney
- ☐ The person did not have the mental capacity to make the enduring power of attorney and the enduring power of attorney is invalid
- ☐ The enduring power of attorney is invalid for any other reason (for example, non-compliance with the requirements of the *Powers of Attorney Act 2003* or that the person was induced to make the enduring power of attorney by dishonesty or undue influence)

☐ **Review of the operation and effect of the Enduring Power of Attorney**

Select the orders you want the Tribunal to make from the list below.

- ☐ Vary a term of the power
- ☐ Remove an attorney from office
- ☐ Appoint a substitute attorney for an attorney who has been removed or where the office has become vacant
- ☐ Reinstate a lapsed enduring power of attorney
- ☐ Order an attorney to:
 - ☐ furnish accounts and other information to person nominated by NCAT or to NCAT
 - ☐ lodge with NCAT a copy of all records and accounts kept by the attorney of dealing made by the attorney under the power
 - ☐ that those records or accounts be audited and the report of the auditor be further to NCAT
 - ☐ submit a plan of financial management to NCAT for approval
- ☐ Revoke all or part of the enduring power of attorney

☐ Any other order (specify)

Note: NCAT may decide not to make any of the above orders and instead treat this application as an application for a financial management order. If NCAT thinks this is appropriate in the circumstances, a private financial manager, or the NSW Trustee and Guardian may be appointed as the financial manager.

B. REASONS FOR ASKING FOR THE REVIEW?

Explain why you think the Enduring Power of Attorney should be reviewed. For example, is the person's money about to be spent or assets sold or transferred in a way that is not in their best interests? Have services (home care or support, gas, power, phone) been or about to be discontinued? Is there a pending financial transaction or property sale? Are there current or anticipated legal proceedings involving the person?

Provide details, including what attempts have been made to resolve these problems.

C. DO YOU BELIEVE THIS MATTER IS URGENT BECAUSE THE PERSON IS AT RISK?

☐ **NO** ☐ **YES** (provide details below)

D. WHAT IS THE PERSON'S FINANCIAL SITUATION?

List the details of the person's income, expenses, assets and debts in as much detail as possible.

7. APPLICATION CHECKLIST

☐ **I have attached all other documents relevant to this application**

Attach a copy of the Enduring Power of Attorney (or copies if more than one exists). Include professional evidence or reports and written statements only if they are relevant to the issues NCAT needs to decide.

☐ **I have sent a copy of this application and attachments to NCAT**

To lodge your application, send your application and all supporting documents to NCAT's Guardianship Division. Check that you have completed all relevant items and signed the application form. For urgent applications, email your application form and supporting documents to gd@ncat.nsw.gov.au and call the Registry on 1300 006 228.

NCAT Guardianship Division

Email: gd@ncat.nsw.gov.au

Post: PO Box K1026, Haymarket NSW 1240

In person: Level 6 John Maddison Tower, 86-90 Goulburn Street, Sydney

☐ **I have sent a copy of this application and attachments to the NSW Trustee and Guardian**

The NSW Trustee and Guardian is a statutory party to all review of Enduring Power of Attorney applications. You must send copies of all documents, including this application and any attachments, to the NSW Trustee and Guardian.

NSW Trustee and Guardian

Email: taggd@tag.nsw.gov.au

Post: Locked Bag 5115, Parramatta NSW 2124

☐ **I have sent a copy of this application and attachments to all other parties**

You must send copies of all documents, including this application and any attachments, to all other parties to the application, including the person who the application is about. For more information read the fact sheets [Providing information to the Guardianship Division](#) and [Who is a party to proceedings in the Guardianship Division?](#)

☐ **I have made a copy of this application for my own records**

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

8. DECLARATION AND SIGNATURE

Declaration

Having read through this completed application:

- ☐ I consider that, to the best of my knowledge, all of the information is true and accurate.
- ☐ I have not intentionally left out important information or the names of people who are likely to have a legitimate interest in the application.
- ☐ I understand that it is an offence to make a false or misleading statement in an application.

Name

Signature

Date

NCAT GUARDIANSHIP DIVISION

Email: gd@ncat.nsw.gov.au

Postal address: PO Box K1026, Haymarket NSW 1240

Street address: Level 6 John Maddison Tower, 86-90 Goulburn Street, Sydney

Telephone: (02) 9556 7600 or 1300 006 228
Interpreter Service (TIS) 13 14 50
National Relay Service 1300 555 727

Website: www.ncat.nsw.gov.au

GUIDE TO COMPLETING THE APPLICATION FORM

Use the following information to help you complete the NCAT Guardianship Division 'Review of an Enduring Power of Attorney' form. Section headings and numbers match the questions on the form.

1. PERSON THE APPLICATION IS ABOUT

A. PERSON'S NAME AND ADDRESS

Provide the full name and address of the person who made the Enduring Power of Attorney.

B. PERSON'S CURRENT LOCATION

This is the address of the place where the person is staying if they are not at their usual address.

C. WHAT TYPE OF ACCOMMODATION ARE THEY CURRENTLY IN?

Tick the box that best describes where the person is currently living.

D. WHAT IS THE PERSON'S VIEW ABOUT THIS APPLICATION?

You must tell the person you are making an application about them and ask whether they agree to it. NCAT may make an order even when the person does not agree, but must take their views into account.

E. WHY DO YOU THINK THE PERSON HAS A DECISION MAKING DISABILITY?

NCAT needs to know what disabilities or other health related factors are affecting the person's decision-making capacity. Attach any evidence you have about the person's condition or their ability to manage their financial affairs.

F. ASSISTANCE AT THE HEARING

NCAT prefers the person to attend the hearing in person, if possible. The hearing will be set up as a virtual hearing for any party unable to attend in person due to ill health or travel issues. Virtual hearing details will be sent to you.

2. APPLICANT

The applicant is the person who is lodging the application. Provide your details here unless you are the person the application is about.

I agree to have NCAT notices and correspondence sent to my email address

By ticking this box you agree to receive all correspondence by email.

I have read the [Review of an Enduring Power of Attorney fact sheet](#)

You must have read and understood the responsibilities of an applicant before you continue. If at any stage you are unwilling or unable to continue in the role, you should find someone else to take over and inform NCAT.

3. OTHER PARTIES

A. HAVE YOU SENT A COPY OF THIS APPLICATION TO THE NSW TRUSTEE AND GUARDIAN?

The NSW Trustee and Guardian is a statutory party to all NCAT Review of Enduring Power of Attorney applications. You must send them a copy of your application and any attachments. The NSW Trustee and Guardian is a separate organisation from NCAT.

B. PERSON/S APPOINTED AS AN ATTORNEY UNDER THE ENDURING POWER OF ATTORNEY

Each attorney appointed under the Enduring Power of Attorney is a party to the application.

C. ACKNOWLEDGEMENT OF PARTIES

All material sent to NCAT must also be sent to the NSW Trustee and Guardian and all the other parties, including the person that the application is about, unless NCAT makes an order to restrict disclosure about the proceedings (section 64 *Civil and Administrative Tribunal Act 2013*). You must provide good reasons if you want orders made to restrict disclosure.

4. OTHER PEOPLE IN THE PERSON'S LIFE

NCAT can join a person to the application if satisfied that they have a genuine concern for the welfare of the person that the application is about or a proper interest in the proceedings.

A. DOES THE PERSON HAVE A SPOUSE?

A **spouse** is the husband, wife or de facto partner (including same sex partner) of the person the application is about. The spouse must have a close and continuing relationship with the person.

B. DOES THE PERSON HAVE A CARER?

A **carer** is an unpaid person who provides or arranges for domestic services and support for the person on a regular basis, or before the person lived in a residential care facility. The carer is still considered unpaid if they receive a carer's pension.

C. HAS THE PERSON APPOINTED AN ENDURING GUARDIAN OR A COURT/TRIBUNAL HAS APPOINTED A GUARDIAN?

An **enduring guardian** is someone appointed by the person to make lifestyle, health and medical decisions for when they are not capable of doing this for themselves. If applicable, attach a copy of the person's signed Appointment of Enduring Guardian Form.

D. ARE THERE OTHER PEOPLE IN THE PERSON'S LIFE?

If the person has close friends or relatives that have frequent contact with the person, and an interest in their welfare, they should be listed. Professionals such as social workers or doctors should also be listed.

5. DETAILS ABOUT THE ENDURING POWER OF ATTORNEY

Refer to the Enduring Power of Attorney instrument when providing the following details.

A. DATE OF THE ENDURING POWER OF ATTORNEY

Insert the date the Enduring Power of Attorney was signed by the person.

B. ATTORNEY/S APPOINTED UNDER THE ENDURING POWER OF ATTORNEY

Provide details of the attorney/s appointed by the person.

C. SUBSTITUTE ATTORNEY

Provide details of any substitute attorney/s appointed by the person.

D. PRESCRIBED WITNESS ON THE SECTION 19 CERTIFICATE

Provide details of the prescribed witness who completed the certificate under section 19 of the *Power of Attorney Act 2003*.

E. HAS THE PERSON MADE ANY OTHER ENDURING POWER OF ATTORNEY?

Indicate whether the person has made a new or had previous Enduring Power of Attorney. If you want NCAT to review the revocation of an Enduring Power of Attorney, you must submit a separate application form. Read the [Review the revocation of an Enduring Power of Attorney](#) fact sheet.

6. NEED FOR A REVIEW OF THE ENDURING POWER OF ATTORNEY

A. WHAT ORDERS DO YOU THINK NCAT SHOULD MAKE?

Review of the making of the Enduring Power of Attorney

If you are concerned the person did not have the mental capacity to make an Enduring Power of Attorney, you can apply to NCAT to review its making. NCAT can make an orders declaring that the person did or did not have mental capacity to make an Enduring Power of Attorney or declaring the Enduring Power of Attorney is invalid in whole or in part.

Review of the operation and effect of the Enduring Power of Attorney

If there is a problem with how the Enduring Power of Attorney is working, you can apply to NCAT to review its operation and effect.

NCAT can make one or more of the following orders:

- remove the attorney
- appoint a substitute attorney to replace an attorney
- reinstate an Enduring Power of Attorney that has lapsed because the attorney is no longer able to perform their duties
- direct an attorney to provide records and accounts of dealings and transactions made under the Enduring Power of Attorney, to arrange for those records and accounts be audited, and/or to submit a financial management plan.
- revoke all or part of the Enduring Power of Attorney
- any other orders NCAT thinks fit

NCAT can make an order declaring that the person lacks capacity for the time being or lacked capacity at a specified time.

If NCAT finds that the person lacks capacity for the time being, the person is no longer able to manage their finances and only their appointed attorney can do so. The person is not able to revoke the Enduring Power of Attorney during this time.

A declaration that the person lacks capacity for the time being continues to have effect until NCAT makes a further order bring the declaration to an end.

NCAT may decide not to carry out a review of the Enduring Power of Attorney.

NCAT may decide to treat the request for review as an application for a financial management order. If satisfied it is in the best interests of the person, NCAT can make a financial management order placing the person's finances under the management of a private financial manager who is subject to the directions of the NSW Trustee and Guardian or commit the management of the person's finances to the NSW Trustee and Guardian.

NCAT can review the revocation of an Enduring Power of Attorney. There is a separate form for applying for a [Review of a revocation of an Enduring Power of Attorney](#). For more information read the [Review the revocation of an Enduring Power of Attorney fact sheet](#).

B. REASONS FOR ASKING FOR THE REVIEW?

NCAT needs to know why you think the Enduring Power of Attorney should be reviewed. Explain why you think it should be reviewed and what attempts have been made to resolve the problem.

C. DO YOU BELIEVE THIS MATTER IS URGENT BECAUSE THE PERSON IS AT RISK?

You should tell NCAT about any possible risk to the person or their finances. For example:

- Is the person's money about to be spent or their assets sold or transferred in a way that is not in their best interests?
- Have services been or about to be discontinued (e.g. home care and support services, gas, power, phone)
- Is there a pending financial transaction? (e.g. sale of the person's property)

D. WHAT IS THE PERSON'S FINANCIAL SITUATION?

Provide details of the person's financial circumstances, for example:

- The person's income and major expenses
- The person's major assets, such as property and shares
- The person's major debts
- Whether the person's spending is causing difficulty

EVIDENCE AND SUPPORTING MATERIALS

At the hearing you will need to provide evidence to support the application. NCAT will generally need a professional opinion about the person's disability and capacity to make financial decisions.

Your evidence may include reports prepared by:

- A doctor or other health or disability professional
- A lawyer or accountant involved in the person's financial affairs
- The provider of accommodation or services
- A counsellor or financial counsellor
- A social worker
- The evidence can be in the form of a report, statement, statutory declaration or affidavit. At the hearing NCAT can consider evidence that is in writing or given orally.

If the person has signed an Appointment of an Enduring Guardian, a copy of it should be attached to the application.

All documents sent to NCAT must also be sent to the other parties. Do not provide information that you do not want disclosed to other parties.

7. APPLICATION CHECKLIST

I have attached all other documents relevant to this application

Include all relevant information with your application. Do not include information you do not want disclosed to other parties.

The application and supporting material must be sent to all parties unless the Tribunal orders otherwise. For more information see the factsheets [Providing information to the Guardianship Division](#) and [Who is a party to proceedings in the Guardianship Division?](#)

I have sent a copy of this application and attachments to the NSW Trustee and Guardian

The NSW Trustee and Guardian is a statutory party to all NCAT Enduring Power of Attorney applications. You must send copies of all documents, including this application and any attachments, to the NSW Trustee and Guardian.

I have sent a copy of this application and attachments to all other parties

You must send copies of all documents, including this application and any attachments, to all other parties to the application including the person the application is about. See the factsheet [Who is a party to proceedings in the Guardianship Division?](#)

I have made a copy of this application for my own records

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

8. DECLARATION AND SIGNATURE

You must verify that all the information you have provided to NCAT is true and correct.

You must print your name and sign and date the application form. If the application form is submitted without being signed it may cause unnecessary delays.

HOW CAN NCAT HELP ME?

If you have any questions about completing this form please contact NCAT's Guardianship Division on:

Email: gd@ncat.nsw.gov.au

Telephone: (02) 9556 7600 or 1300 006 228

Website: www.ncat.nsw.gov.au

WHERE CAN I LODGE MY APPLICATION FORM?

To lodge your application, return all pages of the form to NCAT's Guardianship Division. Check that you have completed all relevant items and signed the form.

Give NCAT the completed form and any attachments by:

EMAIL: gd@ncat.nsw.gov.au

POST: Guardianship Division
NSW Civil and Administrative Tribunal
PO Box K1026
Haymarket NSW 1240

IN PERSON: NCAT Guardianship Division
Level 6 John Maddison Tower
86-90 Goulburn Street, Sydney

Office hours: 9am-5pm Monday to Friday (closed public holidays)

For urgent applications, email your application and supporting documents to gd@ncat.nsw.gov.au and call the Registry on 1300 006 228.