



Financial and legal considerations - Part 2

Guardianship and administration orders

How to know when a guardian and/or administrator is needed

If your family member or friend is assessed as being unable to make decisions for themselves, existing legal documents will take effect. This may be an [Enduring Power of Attorney \(Financial\)](#), an [Enduring Power of Attorney \(Medical\)](#) or an [Enduring Power of Guardianship](#). The people entrusted with these powers will now take responsibility for making relevant decisions.

Where there are no legal documents in place, the Guardianship and Administration Act says that some medical and dental treatment decisions can be made by the '[person responsible](#)' - who this will be is determined from a list in section 37 of this Act. The person responsible must act in your family member's best interests and must take into account the views of other relatives.

Where there is debate over who the person responsible is or there are concerns about that person's ability to make decisions in your family member's best interests, legal steps may be taken to appoint a [guardian](#).

If your family member needs someone to look after their finances, an administrator can be appointed.

How to have a guardian and/or administrator appointed

A concerned individual (which may be the GP, a health professional, service provider or sometimes even another family member), will need to complete a: [Guardianship List application form](#) and send it to the Victorian Civil and Administrative Tribunal (VCAT).

The applicant is required to give all interested persons a copy of the application, making sure they are aware and have the opportunity to put their views forward. VCAT will then advise all interested persons of the date of the hearing. You are invited to (and should) attend the hearing. Additionally, you may choose to put your own views in writing to VCAT beforehand.

A decision will usually be made at the hearing. However, if the issues are complex the Public Advocate may be asked to look into the situation further. In this case the hearing would reconvene. There is no cost attached to the hearings.

Further information:

- ▣ [Victorian Civil and Administrative Tribunal- Guardianship List](#) - ph: 1800 133 055.
- ▣ [Office of the Public Advocate \(OPA\)](#). Phone: 1300 309 337.
- ▣ [Financial and legal considerations - Part 1](#): Enduring Powers of Attorney/Guardianship and Wills - information sheet.

Contact the [Commonwealth Carer Resource Centre](#) on 1800 242 636* to request the above information sheet be sent to you - or to find out about other information sheets in this series.

*Free call except from mobile phones. Mobile calls at mobile rates.

We do our best to keep these links up to date, but the internet changes all the time. If you can no longer access any of the above resources, please go to our [Internet Troubleshooting Guide](#), or email us at website@carersvic.org.au