



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 orders will take effect. This may be an Enduring Power of Attorney (Financial), or an Enduring Power of Guardianship. The person entrusted with this power will now take responsibility for making relevant decisions.

Where there are no legal orders in place, the Guardianship Act says that it is preferable not to disturb existing [informal arrangements](#), where family or friends make necessary decisions (assuming this is working well).

Where there is debate over who should be responsible or concerns held over that person's ability to make decisions in your family member's best interests, legal steps may be taken to appoint a formal [guardian](#) or [administrator](#). A hearing will decide whether this is necessary and if so, who it should be - sometimes another family member will be appointed, but often it will be someone independent.

How to have a guardian and/or administrator appointed

The concerned individual (which may be the GP, a health professional, service provider or sometimes even another family member), will need to make an application to the Guardianship Board. The Office of the Public Advocate can assist you in this process.

The applicant should give all interested persons a copy of the application, making sure they are aware of this and have the opportunity to put their views forward. The Guardianship Board will then advise all interested persons of the date of the hearing - it is important that you and your family member attend.

A decision will usually be made at the hearing. However, if the issues are complex a 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:

- ☐ [The Public Trustee](#) - ph: 8226 9204
- ☐ [Office of the Public Advocate](#) - ph: 8269 7575 (or 1800 066 969 for country callers)
- ☐ [The Guardianship Board](#) - ph: 1800 800 501.
- ☐ [Financial and legal considerations - Part 1: Enduring Powers of Attorney/Guardianship - 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