



Guardianship application

GUARDIANSHIP DIVISION

Complete this form to apply to NCAT to appoint a guardian under the *Guardianship Act 1987*. Guardians can make decisions about a person's health, accommodation, services or other lifestyle matters. The person the application is about must be over 16 years, usually lives in NSW, and has a decision making disability.

If decisions need to be made about financial matters, consider applying to NCAT for a financial management order. Refer to the 'Financial management application' form for further details.

File Number

Office use only

1. PERSON THIS APPLICATION IS ABOUT

A. PERSON'S NAME AND ADDRESS

Given name

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 Mental illness
 Other (provide details)

Do you have any written evidence about the person's disability and their capacity for making decisions?

For example, a report from a doctor or other health care professional. If yes, please attach.

- YES NO (why not?)

Is the person the subject of a corresponding order made in another Australian state, territory or New Zealand?

- NO YES (provide details)

Has the person been the subject of a previous application or order at NCAT (or former NSW Guardianship Tribunal)? If yes, please provide the client number

- NO YES (provide details)

Are you making this application because of the National Disability Insurance Scheme (NDIS)?

- YES NO

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 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 name

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. Please provide an email address that is accurate and checked regularly.

I have read the [Information for Applicants](#) 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. DOES THE PERSON HAVE A SPOUSE?

NO

YES (provide details)

Given name

Family name

Postal Address

Contact details Daytime telephone

Mobile

Email

B. DOES THE PERSON HAVE A CARER?

NO

YES (provide details)

Given name

Family name

Postal Address

Contact details Daytime telephone

Mobile

Email

C. HAS THE PERSON APPOINTED AN ENDURING GUARDIAN?

NO

YES (provide details)

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

Given name

Family name

Postal Address

Contact details Daytime telephone

Mobile

Email

D. NSW PUBLIC GUARDIAN

The NSW Public Guardian is a statutory party to all Guardianship Applications

Postal address: Locked Bag 5116, Parramatta NSW 2124

Email: PGERegistry@opg.nsw.gov.au

Fax: 02 8688 9797

E. 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:

- The person the application is about
- Their spouse (if any)
- Their carer (if any)
- Their appointed enduring guardian/s (if any)
- NSW Public Guardian

4. 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 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 if they have sufficient interest.*

6. NEED FOR A GUARDIAN

NCAT can only appoint a guardian for a person who has a disability that affects their decision making capability if:

- there is a current need for someone else to make personal decisions for them
- decisions cannot be made informally, and
- it is in the person's best interests for an order to be made.

A. WHY ARE YOU ASKING FOR A GUARDIAN TO BE APPOINTED?

Explain why you think a guardian should be appointed, including any attempts made to informally resolve issues.

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

NO

YES Provide details.

C. WHO DO YOU SUGGEST FOR THE ROLE OF GUARDIAN?

The proposed guardian must be aware of this application unless you are proposing the NSW Public Guardian.

Yourself

NSW Public Guardian

Don't know

Someone else (provide details below)

Given name

Family name

Relationship to person

Postal address

Contact details

Daytime telephone

Mobile

Email

7. APPLICATION CHECKLIST

- I have attached all other documents relevant to this application**
Include medical evidence or reports and written statements only if they are relevant to the issues NCAT needs to decide. Attach a copy of the Enduring Guardian Appointment if applicable.
- 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.
- 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

9. LODGEMENT

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 application form.

NCAT GUARDIANSHIP DIVISION

Postal address: PO Box K1026, Haymarket NSW 1240
DX 11539 Sydney Downtown

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 for TTY Users 13 36 77

Email: gd@ncat.nsw.gov.au

Website: www.ncat.nsw.gov.au

GUIDE TO COMPLETING THE APPLICATION FORM

Use the following information to help you complete the NCAT Guardianship Division Guardianship Application 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 person's full name and usual address.

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 still make an order if they don't agree, but must take their views into account.

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

For NCAT to make a guardianship order, the person must have a disability that affects their decision making. There must also be a current need for someone else to make decisions about the person's health, accommodation or services. This may or may not be due to a medical condition.

Attach any evidence you have about the person's condition or their ability to make their own decisions.

F. ASSISTANCE AT THE HEARING

NCAT prefers that the person attends the hearing in person. If they are not able to attend in person, a video or teleconference can be arranged. If other assistance is required, or the person cannot take part in the hearing, you should contact NCAT.

2. APPLICANT

The applicant is the person who is lodging the application. Provide your details here unless you are the person the applicant 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 'Information for Applicants' 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. 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?

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, please attach a copy of the person's signed Appointment of Enduring Guardian Form.

D. NSW PUBLIC GUARDIAN

The NSW Public Guardian is a statutory official who can be appointed as the 'guardian of last resort'. This means that NCAT has decided no other person can be appointed. This usually happens when no one is available, or when there is no one suitable, possibly because of conflict.

E. ACKNOWLEDGEMENT OF PARTIES

All material sent to NCAT must also be sent to 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

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. NEED FOR A GUARDIAN

A. WHY ARE YOU ASKING FOR A GUARDIAN TO BE APPOINTED?

Most adults with disabilities are assisted with decision making by family members, friends or service providers. These informal decision making arrangements often meet the person's needs.

NCAT must be satisfied by the evidence before it that:

- the person the application is about has a decision making disability
- the disability results in the person being partially or wholly incapable of managing themselves, and
- there is a need for the person to have a guardian appointed.

If the person already has informal decision making or an enduring guardianship appointment in place that is working in their best interests, NCAT may not make an order.

A guardian is not authorised to make decisions about the person's financial affairs. If you think this type of decision need to be authorised you should apply for a financial management order.

B. IS THERE A RISK TO THE PERSON?

You should tell NCAT about any possible risk to the person. It may be a **risk of**:

- Becoming homeless
- Being abducted (removed without authority) from their usual residence has received an offer of
- Missing out on an offer of accommodation if not accepted soon
- Being physically abused or neglected
- Being exposed to verbal abuse, intimidation or conflict
- Requiring or refusing medical treatment or services
- Engaging in behaviour exposing them to harm or danger
- An exploitative relationship.

C. WHO DO YOU SUGGEST FOR THE ROLE OF GUARDIAN?

You can suggest a guardian, however NCAT is not bound to appoint that person. You should talk to the person before nominating them. The person must be over 18 years and suitable for the role because of their own experience.

6. APPLICATION CHECKLIST

I have attached all other documents relevant to this application

Include all relevant information with your application. Refer to the information on evidence and supporting materials. Do not include any confidential information with your application as copies of your attachments will be provided to the other parties.

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.

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.

7. 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.

EVIDENCE AND SUPPORTING MATERIALS

At the hearing you will need to provide evidence to support the decision. For a guardianship order, NCAT will generally need a professional opinion about the person's disability and capacity to make personal and lifestyle 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. You should not provide information that you do not want disclosed to the other parties.

HOW CAN NCAT HELP ME?

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

Telephone: (02) 9556 7600 or 1300 006 228
Interpreter Service (TIS) 13 14 50
TTY Users 13 36 77

Email: gd@ncat.nsw.gov.au

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 application form. You can lodge the completed form and any attachments by:

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)