



Mental Health Legal Centre

# Changing Your Administration Order



An Administration Order is a legal document that appoints an administrator to make decisions about your **financial** and **legal** affairs. They are different from Guardianship Orders, which cover health and lifestyle issues. This flyer gives information to help you try to change your Administration Order.

## What Needs to be Proved

An Administration Order can only be made if it's proved that you:

- are over the age of 18 and
- have a **disability** that **causes** you not to make **reasonable decisions** about your financial and legal affairs and
- **need** an administrator

Remember, the fact you've made a bad decision doesn't prove that you aren't capable of making reasonable decisions. The Victorian Civil and Administrative Tribunal (VCAT) should only make an Order if there's no less restrictive way to manage your financial affairs.

**Tip:** If you're well enough to make an **Enduring Power of Attorney (financial)**, this could be a good alternative to an Administration Order. Or if you get Centrelink payments, you could set up **Centrepay** to help you with your bills.

## At the Hearing

Your Administration Order hearing will take place at the Guardianship List at VCAT. It's important to attend your hearing. This is your opportunity to **ask VCAT for things** to go in the Order or be taken out of the Order such as:

- Who you want to be your administrator
- Which areas you want control over (eg: paying one or more bills yourself)
- Getting regular statements so you know how your money is being used

VCAT is obliged to listen to you and take your wishes into account.

**Tip:** You have the right to see your file before your hearing. Just contact VCAT to arrange this.

## Your Administrator's Obligations

The law says all administrators **must**:

- Act in your best interests
- Encourage and **help you** to eventually **resume control** over your finances
- **Communicate** with you
- Take your wishes into account as far as possible

You can expect your administrator to carry out their **duties** by:

- Meeting with you in person after they've been appointed
- Paying off your debts. Sometimes your administrator can arrange for your debts to be reduced or waived if you acquired them when you were unwell
- Making sure your bills and accommodation expenses are paid
- Chasing any money you're entitled to
- Responding fairly quickly when you need money
- Lodging your tax return
- Keeping accurate records of your income and expenses
- Following the Order made by VCAT

Tip: Make use of your administrator! Get them to help you with bills and debts

The law says your administrator is **not** allowed to:

- Make decisions about health and lifestyle issues, such as medical treatment, employment, where you live or who you associate with
- Have a conflict of interest with you
- Make a personal profit from managing your finances

Tip: If you're not happy with the decisions your administrator is making, first try negotiating with them. You might be able to get an increase in payments or more control over your money.

## Who You Want to Be Your Administrator

You should let VCAT know who you want to be your administrator. A trusted friend or family member could do it if VCAT agree. Or you might have a professional administrator such as the State Trustees (STs). VCAT will need to be sure that the person you suggest is able to manage your finances and look after your best interests. No matter who your administrator is, they must follow their obligations. **All** administrators are **accountable** to VCAT for the way they manage your affairs.

## Fees

Professional administrators will charge you a fee for their services. **State Trustees** can charge between 3.3% - 6.6% of your income. If you're on a Disability Support Pension, this works out to about \$15 a fortnight. If you have less than \$3,000 in savings, the STs' fees will be **subsidised**. This means STs will charge you their fees but pay the money back later.

A **friend** or **family member** is not allowed to charge you any money for acting as your administrator. This can **save you money** on fees.

**VCAT** can charge you an annual fee for overseeing your Order. If you earn less than \$607 a fortnight, VCAT won't charge you anything. If you earn more than this, they can charge up to \$100.

Tip: If you believe the VCAT fee will cause you **undue hardship**, you can write to VCAT and ask them to **waive** it

## Evidence to Get Before You Go to VCAT

Getting back **control** of your finances is often a staged process. You need to **get evidence** to show VCAT that you can make reasonable decisions about your money. This evidence can include:

- Using a financial counsellor (see contacts at the end) to help you manage bills and debts
- Joining the Financial Independence Programme (FIP) if you are with the State Trustees (you can ask VCAT to help you get onto the FIP)
- Keeping a diary of what you spend your money on, what bills you get, and when you pay them
- Saving receipts when you buy food and other practical items
- Opening a savings account and saving a little bit of money when you can afford it
- Taking responsibility for paying some bills
- Asking your administrator to give you some more money to show you can budget
- Keeping in regular contact with people like your case manager, social worker, financial counselor, carer and doctor so you have people who can give evidence that you can make reasonable decisions

**Tip:** If your administrator isn't helping you to regain independence, get your case manager to speak to them

## Getting Off

If you want to **get off** the Administration Order, you'll need to show VCAT:

- **Evidence** that you understand your income and expenses and that you can make reasonable decisions about your money (see above)
- A **report** from your current treating doctor and/or case manager saying you're ready to get off the Order (sometimes Victoria Legal Aid will fund the report)

It can also be useful to show that you have some kind of system or plan in place to help you manage if you become unwell.

## Going to VCAT

You can go to VCAT if you want to change or get off your Administration Order. Simply write a letter to VCAT explaining what type of hearing you need and the reasons why. You should get legal representation for the hearing if possible. Contact Victoria Legal Aid to see if you're eligible for legal aid. If you don't qualify for legal aid, you might still be able to see a duty lawyer for free.

**Tip:** To see the duty lawyer, turn up at VCAT at about 9am on the day of your hearing and ask court staff to tell you where the duty lawyer is. If there's a duty lawyer available, they might be able to give you advice or help you with your hearing.

## Types of Hearings

It's important to know which type of hearing to ask VCAT for.

### Review – Ask for a Review if the Order was Made in Your Absence

If you didn't attend the hearing when the Administration Order was made, you should ask VCAT for a review. You need to apply for a review within **14 days** of becoming **aware** of the Order. Write to VCAT explaining the reasons why you weren't at the original hearing and ask for a review.

### Reassessment – Ask for a Reassessment when Your Circumstances Have Changed

You should ask for a reassessment if there has been a significant change in your circumstances since the last time VCAT saw you. Just write to VCAT telling them what has changed and ask for a reassessment.

VCAT will usually initiate a reassessment of your Order within 12 months of it being made. In all other cases VCAT will automatically reassess the Order within 3 years. If VCAT has initiated a reassessment, you'll get a **Notice of Hearing** telling you the 3 years is nearly up. It's important to read this notice carefully. You might be required to tell VCAT that you want to come to your reassessment. If you don't attend your reassessment, the Administration Order will continue.

### Rehearing – Ask for a Rehearing if VCAT Has Made a Mistake

If you believe that VCAT has made the wrong decision about your Administration Order, you can ask for a rehearing. You must write a letter to VCAT within **28 days** of the Order being made and explain why you think they made a mistake. A rehearing is a bit like an appeal. If you get a rehearing, your situation will be examined from start by a more senior member at VCAT.

**Tip:** In your letter to VCAT it's a good idea to tell them whether you want to get off your order completely or simply change something on your Order

## Useful Contacts

### Mental Health Legal Centre

9th floor, 10 - 16 Queen Street  
Melbourne VIC 3000  
Ph: (03) 9629 4422 or 1800 555 887

Advice line times:

Mon, Wed, & Friday 3-5pm  
Tues & Thurs 6.30-8.30pm

### The Guardianship List

#### VCAT

55 King Street  
Melbourne VIC 3000  
Ph: (03) 9628 9911

### Victoria Legal Aid

350 Queen Street  
Melbourne VIC 3000  
Ph: (03) 9269 0234

### State Trustees

168 Exhibition Street  
Melbourne VIC 3000  
Ph: (03) 9667 6444

### Financial & Consumer Rights Council

247 Flinders Lane  
Melbourne VIC 3000  
Ph: (03) 9663 2000 or 1800 134 139