

Applications to Vary or Revoke Orders

COMMUNITY STREAM

When can you apply?

In some circumstances SACAT may consider an application to vary (change) or revoke an order.

To apply to vary or revoke an administrator or guardianship order, the applicant must be able to demonstrate that there has been a change in circumstances of the protected person or of the private guardian or administrator.

What is a change in circumstances?

A change in circumstances includes when:

- ▶ The private administrator or guardian no longer has mental capacity or is deceased. In the former case a medical report advising of the mental incapacity of the administrator or guardian is needed and, in the latter case, a death certificate.
- ▶ The private administrator or guardian is no longer willing to continue in their role. A written statement from the administrator or guardian is required confirming they wish to relinquish their role.
- ▶ The subject person has regained mental capacity. A medical report confirming mental capacity is required. To revoke an administration order, evidence is also required of the subject person's ability to manage their finances, such as attendance at a course relating to budgeting and if the person would have any supported decision makers.

- ▶ The administrator has misappropriated funds of the subject person. Supporting evidence of the misappropriation of funds is required.
- ▶ A pre-existing Enduring Power of Attorney or Guardianship or an Advanced Care Directive has been located which was not available at the time of the hearing. A certified copy of the document(s) is required.

What if I don't agree with the order?

If you disagree with a decision made by SACAT (eg. You consider the decision is "unjust" or "unfair" or wrong"), it is not appropriate to make an application to vary or revoke an order. In this case you should consider lodging an application for internal review (an appeal) of a SACAT decision. An application for an internal review must be made within 1 month of the order. However, the Tribunal may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the application must be instituted within that period. Please note, an internal review application requires the payment of a fee.

For more information regarding internal reviews please see:

<https://www.sacat.sa.gov.au/case-type/reviews-of-sacat-decisions/applying-for-an-internal-review>

subject

Who can apply?

The following people can apply to vary or revoke an order:

- ▶ The person who the order is about.
- ▶ Any person who can satisfy SACAT that they have a proper interest in the welfare of the person who the order is about.
- ▶ The Public Advocate on his or her own initiative or at the request of the person who the order is about.
- ▶ The guardian.
- ▶ The administrator of the person's estate (including the Public Trustee).
- ▶ A substitute decision-maker for the person under an Advance Care Directive.
- ▶ A person responsible for the person who the order is about.

SACAT does not guarantee the accuracy or completeness of this Information Sheet and does not accept any responsibility if you rely on it.

You should always seek your own legal advice.