

Want to Lodge a Complaint?

- 1) Make sure you have raised the issue with the health care provider or staff first before taking next steps.
- 2) If you would like to escalate the matter further, you can lodge a complaint online to the Health Care Complaints Commission at <https://ecomplaints.hccc.nsw.gov.au> or call 1800 043 159.

Need Advocacy Support?

Visit the Official Visitors website <https://officialvisitorsmh.nsw.gov.au/> or call 1800 208 218 for more information.

Need Legal Support

Contact the Mental Health Advocacy Service, Legal Aid on 1300 888 529. You can also visit their website <https://www.legalaid.nsw.gov.au/>

Need More Information on Guardianship or Financial Management Orders?

To speak with the NSW Civil & Administrative Tribunal call 1300 006 228 and Press 2 for Guardianship Division. Visit the website <https://www.ncat.nsw.gov.au/ncat/how-ncat-works/ncat-divisions-and-appeal-panel/guardianship-division.html>

BEING – Mental Health Consumers is the independent, state-wide, peak organisation representing the views, perspectives and experiences of people who live with mental health issues in NSW. Our primary focus is to ensure the voices of people living with mental health issues are heard by decision makers, service providers, and the community, and recognised for the valuable expertise they bring to system and service reform.

Supported by NSW Health, BEING has developed this series of resources to help you learn about your rights as a mental health inpatient under the NSW Mental Health Act and the advocacy supports available to you.

For more information about BEING visit being.org.au contact info@being.org.au or call **1300 234 640**

To view an expanded version of this resource online, scan this QR code.



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Mental Health and Your Rights

Financial Management Orders and
Guardianship Orders

KNOW YOUR RIGHTS

What is a Guardianship Order?

A Guardianship Order is made to provide another person or party with the power to make some decisions on your behalf. This includes healthcare, lifestyle and medical-related decisions.

The treatment team taking care of you at the mental health unit can apply for a Guardianship Order if they believe you need support in making decisions about different aspects of your everyday life. This can happen regardless of whether you have been voluntarily or involuntarily admitted to a mental health unit.

Note: A Guardianship Order can only be approved if the NSW Guardianship Division of the NSW Civil and Administrative Tribunal (NCAT) is satisfied that you do not have capacity to manage your everyday life and need the support of a guardian.

Can the Mental Health Review Tribunal Cancel My Financial Management Order?

Yes, the Mental Health Review Tribunal can review and cancel a Financial Management Order if it decides:

- You can manage your own affairs and finances
- Cancelling the order is in the best interest of your welfare

Only the person under the Financial Management Order can apply to the Mental Health Review Tribunal to have it cancelled.

It is possible to make this application either before or after discharge from a mental health unit. You will need to seek advice from Legal Aid or the Mental Health Advocacy Service before making this decision.

Can the Mental Health Review Tribunal Cancel My Guardianship Order?

No, the Mental Health Review Tribunal does not have the power to cancel your Guardianship Order. This is the responsibility of the NSW Civil and Administrative Tribunal (NCAT) Guardianship Division to review.

What is A Financial Management Order?

A Financial Management Order gives another person the power to manage your finances on your behalf if it is decided that you are unable to manage your everyday life admin tasks, including your finances.

A Financial Management Order can be made by either the Guardianship Division of NCAT or Supreme Court.

The Mental Health Review Tribunal can also make a Financial Management Order but only when you are admitted to a mental health unit.

EXERCISE YOUR RIGHTS

Appeals and Reviews - What's the Difference?

A review only looks at your current situation in deciding whether to continue the Order or not.

An appeal is when the original decision is re-assessed. You can appeal at any time but that does not mean that it will necessarily be approved.

For more information on how and when an original decision can be re-assessed, seek legal advice.

How Can I Appeal My Guardianship or Financial Management Order?

Guardianship Orders and Financial Management Orders can also be appealed through the NSW Civil and Administrative Tribunal (NCAT) Appeal Panel OR the NSW Supreme Court.

Before making an appeal or applying for a review of a Guardianship or Financial Management Order, please contact the Mental Health Advocacy Service for legal advice.

How Can I Have My Guardianship or Financial Management Order Reviewed?

You can apply to the NSW Civil and Administrative Tribunal (NCAT) Guardianship Division to have your Guardianship Order or Financial Management Order reviewed.

The NCAT may review the order if:

- There is additional information provided that could not be provided at the hearing
- The order is not working in your best interest
- Your circumstances have significantly changed since the Order was made
- There is no longer a need for a Guardianship or Financial Management Order.