



Disability Rights Advocacy Service Inc

Administration Order Fact Sheet

What is an administration order?

A person with a mental incapacity may be unable to make certain decisions about their financial matters. They may be unable to manage their money, legal or business affairs.

An administration order is where SACAT authorities another person to make those decisions and manage those financial matters. They have no authority to make lifestyle, accommodation, and medical decisions.

What needs to be proved?

An administration order **does not** remove a person's finances or assets from them. South Australian Civil and Administrative Tribunal (SACAT) simply appoints someone else to manage the person's financial affairs.

SACAT will not make an administration order unless satisfied the person:

- 1) Has a mental incapacity and
- 2) There is a need for an order to be made.

1) What is mental incapacity?

A mental incapacity can affect a person's ability to look after their own safety, health or welfare and can include:

- An intellectual disability
- Brain damage
- Mental illness
- Conditions such as dementia
- Being in a physically unwell state where a person cannot communicate their intentions, such as being in a coma.

2) What does SACAT consider when making an administration order?

SACAT will weigh up evidence to decide if there is a need for an order and will consider:

- What the person's wishes would have been had they not become mentally incapacitated
- What the person's present wishes are – if these can be expressed
- Whether existing arrangements are adequate and should not be disturbed
- What is least restrictive of the person's rights and personal autonomy, that also ensures that the person is properly protected and cared for.



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Types of Administration orders

Full Order

This gives the administrator the authority to manage and make decisions about all of the protected persons' financial affairs and estate. A full order will only be made by SACAT if a limited order is not appropriate.

There are limits on the decisions that can be made by administrators without seeking specific approval from SACAT.

Limited Order

If a person with mental incapacity is coping reasonably well with decision-making in most aspects of their financial affairs (like managing their household bills and income) but needs some assistance in certain areas such as management of their business, property and/or shares. In these cases, then a limited administration order can be made by SACAT. The limitation will be specified in the order.

An administration order can be subject to other conditions or limitations and can give power to the administrator to do things SACAT thinks are necessary to administer the estate.

How long is an administration order?

An administration order generally starts on the day SACAT makes the order. It is ongoing until another order is made by SACAT. It must be automatically reviewed at least every three years to see if the order is still needed or if any changes should be made. Sometimes, the protected person's circumstances change. The person who the administration order is about, and anyone else with an interest in their welfare, can apply to SACAT to have the order charged or cancelled at any time.

Other options

SACAT will only make an Administration order for a person with mental incapacity after considering their situation and current arrangements.

Informal arrangements

In many situations, a person with a mental incapacity can manage well in the community with the support of friends, family and service providers. They can make decisions about their finances, living circumstances, self-care and health.

Consent to medical treatment for a person with impaired decision-making capacity can also be provided by a 'person responsible' (under the Consent to Medical Treatment and Palliative Care Act. In these cases, you do not need to apply to SACAT for an order, the person does not need a guardian or a financial administrator.



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Formal arrangements

In many situations, a person will have made plans when they still had mental capacity and are assisted with decision-making under a formal arrangement such as an enduring power of attorney (EPA) or an advanced care directive. If these formal arrangements are working well there is no need to apply to SACAT.

When to apply to SACAT

Sometimes the existing arrangements no longer work. Perhaps there are concerns about the conduct of the attorney under an Enduring Power of Attorney (EPA) or that person may no longer be able to act as the attorney. There might be disagreements within families about making decisions for the person or they may be unable to continue to provide assistance. In these cases, you should apply to SACAT for a guardianship order or an administration order.

For further help about the services and supports available and about whether you need to apply for an order you can contact the [Office of the Public Advocate](#).

Applying to SACAT

All applications to SACAT are made online. You can use a computer, tablet, or smartphone. The application form prompts you for the information they will need.

If you are unable to complete the form online, you can contact the Tribunal for assistance on 1800 723 767 and a staff member may assist you to complete the form by phone.

You can also visit SACAT's offices at Level 4 or 7, 100 Pirie Street, and use a computer at one of SACAT's public kiosks where staff may also provide help.

Appointing an Administrator

SACAT can appoint a person to make business and financial decisions to support someone who has mental incapacity – this person is called a **private administrator**.

Who can SACAT appoint as an administrator?

Usually, SACAT prefers to appoint a family member, friend, or someone who knows the protected person well and is interested and able to take on the role.

SACAT can also appoint:

- The Public Trustee
- An accountant or a lawyer where appropriate
- A trustee company



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If the Public Trustee is appointed as administrator no other administrator can be appointed.

Joint Administrators

If a person and/or a trustee company are appointed as administrator SACAT can appoint a single administrator, or joint administrators, or 'joint and several' administrators to act.

If there is more than one administrator appointed jointly, they must agree on the decisions that they make about the protected persons estate.

If administrators are appointed to act 'jointly and severally', it means that they can make financial decisions without a discussion before acting if it is not practical to do so. The administrators can make a decision and sign documents together or without each other.

SACAT will not appoint:

- A person, unless they consent to the appointment
- A company that is not a trustee company
- A trust.

Administrator suitability:

SACAT will consider the evidence and weigh up certain principles to decide what type of administrator, and who, is appropriate. When deciding if a person is suitable to act as an administrator, SACAT can also consider:

- Whether the potential administrator and the protected person are compatible
- Existing family relationships
- Whether the potential administrator is available and has the skills to manage the estate
- Any conflict of interest.

For more information:

There are significant responsibilities and reporting requirements placed on private administrators.

Visit the Public Trustee Website or click the below link to see more information about private administrators: <https://www.publictrustee.sa.gov.au/private-administrators>



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Applying for an Administration Order

An application for an administration order can be made by:

- The person who the application is about
- The Public Advocate
- A guardian of the person
- A substitute decision maker for the person under an advanced care directive
- A 'person responsible' for the person as defined in the [Guardianship and Administration Act 1993](#)
- Any person who can satisfy SACAT that they have a proper interest in the welfare of the person who the application is about.

Evidence to provide

As the applicant, you are responsible for providing evidence to support your application. You should include:

- Medical and professional reports about the person's mental impairment/illness and capacity to make their own decisions
- Any information or documentation about any risks to the person
- An ACAT Assessment Report
- Any documents already in place such as:
 - An Enduring Power of Attorney
 - An Enduring Power of Guardianship
 - An Advanced Care Directive
- Occupational therapy reports about the person's daily living skills and financial management.

You can also file a written submission (2 A4 pages maximum) to support the application and explain why you believe the order is needed.

Obligations on an administrator

An administrator is required to act in the interests of the person in a way that is consistent with what the person would want if they did not have a mental incapacity.

Where a guardian is appointed (who may be a different person), the guardian and administrator must work together and keep each other informed of any substantial decisions or actions.



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What can an administrator do?

An administration order **does not** remove a person's assets or finances from them. An administrator only has the power to control and manage the protected person's estate, including their bank accounts, property, business and payment of bills.

NOTE: An administrator cannot make decisions about where a person is going to live, their medical care or what they do day-to-day – this is the role of a guardian.

Administrator Duties

The [Guardianship and Administration Act 1993](#) outlines specific duties and powers of administrators. These include:

- Selling and purchasing property (with the approval of SACAT)
- Paying the person's accommodation
- Insuring the person's property and paying rates, taxes and insurance premiums for the property
- Taking or defending legal action regarding the person's property
- Demanding money owed to the person and taking action to recover money that is owed to the person
- Paying the debts of the person
- Lodging a caveat over the person's property
- Using the person's money and property for the benefit of the person, their spouse or domestic partner, children and grandchildren – subject to the approval of SACAT for expenditure over certain limits
- Carrying on the person's business
- Repairing or improving the person's property
- Taking up rights for the offer of new shares to the person
- Granting a power of attorney to another person to do anything the administrator has the power to do.

An administrator can access the person's will but is not permitted to disclose the contents of the will to anyone other than the person with the incapacity.

Private administrators need to be aware of what they can and cannot do under an administration order and when they need to seek further approval from SACAT.



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Reporting requirements

A private administrator is required to report to the Public Trustee at regular intervals about how they are managing the estate. SACAT may also request this information. This involves preparing a statement of accounts which must include:

- Assets and liabilities of the estate
- Income and expenditure of the estate.

The Public Trustee or SACAT may also require other matters to be part of the report. An administrator can also seek legal, accounting or financial advice for the benefit of the estate and pay for that advice from the estate of the protected person.

Automatic Review

SACAT must review all administration orders at intervals of not more than three years after that order has been made.

These are automatic review process, and no application needs to be made by the administrator the person who the order is about, or any other person.

After the automatic review SACAT can revoke or vary the order if satisfied on the evidence:

- That the circumstances of the protected person have changed
- There are no proper grounds or need for it to remain in force.

Cancelling or changing an order

An application to cancel or change an order can be made to SACAT at any time before the set automatic review period if:

- There is new information
- A change to the circumstances of a protected person to justify this
- A person appointed can no longer act in their role.

An application to cancel or change an order can be made by:

- The person who the order is about
- The administrator of the person's estate, including the Public Trustee
- A guardian of, or substitute decision-maker for, the person
- Other 'persons responsible' or persons who can satisfy SACAT that they have a proper interest in the welfare of the person who will need to establish a change of circumstances of the protected person, or the Administrator before applying to SACAT to change or cancel the order.