



VCAT Rehearings

What is a rehearing?

A rehearing occurs when a matter that has already been decided is reconsidered by the Victorian Civil and Administrative Tribunal (VCAT). It is like having a new hearing. A rehearing is different from a reassessment of an order. VCAT undertakes a reassessment of a guardianship or administration order at least every three years to consider whether an order is still necessary.

Who can apply for a rehearing?

A party to the original hearing can apply. If a person received notice of the original hearing, but was not a party, they must seek approval from VCAT to apply for a rehearing.

Why apply for a rehearing?

A person may think a rehearing is necessary if they believe VCAT has made an error in making its decision. For example, they may think that VCAT has failed to take account of some relevant evidence or has placed too much weight on matters which are not relevant.

Can a person apply for a rehearing of all orders of VCAT under the *Guardianship and Administration Act 1986*?

For most orders, yes. But a person cannot apply for a rehearing of an order if it is:

- an interim or temporary order
- an order made by the President of VCAT by him/herself or in conjunction with other members
- an order relating to medical research procedures unless that order involved the appointment of a guardian
- an order relating to medical or dental treatment made under certain sections of the Guardianship and Administration Act
- an order made in relation to an application for a rehearing or for leave to apply for a rehearing.

What will happen at the rehearing?

At the rehearing, VCAT will consider afresh the application for a guardianship, administration or other order. The rehearing will be conducted by a more senior member of VCAT. VCAT will consider all the evidence before it in order to make its decision. It may agree with the original decision and affirm it, or vary that decision or set it aside and make

another order in its place. While an application for a rehearing does not affect the operation of the original order of VCAT, VCAT may put the original order on hold, pending the outcome of the rehearing.

How does a person seek a rehearing?

If a person wants to request a rehearing, they must apply to VCAT within 28 days after the day on which the original order was made. If they have asked VCAT to give them reasons for its first decision, the 28-day period commences on the day they receive those reasons.

What is the application process?

Anyone who wants to apply for a rehearing should complete Form 2 of the VCAT forms for the Guardianship List.

On the form, the person applying should state briefly why they think the order was wrong. For example, if they think that VCAT failed to take account of some relevant evidence, they should state what that evidence is. Also, if they think VCAT placed too much weight on something which is not relevant, they should include an explanation why they think that is so. At the rehearing they will have the chance to have their say.



The Office of the Public Advocate is an independent body established by the Victorian State Government. It works to promote the interests, human rights and dignity of Victorians with a disability. It provides information, advice, education and assistance with advocacy, guardianship, powers of attorney, and consent to medical and dental treatment.

The Office of the Public Advocate supports three voluntary programs, the Community Visitors Program, the Independent Third Persons Program, and the Community Guardianship Program. Community Visitors monitor the quality of disability services in order to safeguard the rights of vulnerable people. The Independent Third Person Program provides support for people with a cognitive disability or mental illness who have contact with the police. Community Guardians are volunteers appointed as guardians for Victorians with a cognitive disability who can't make decisions for themselves.

For more information visit:
www.publicadvocate.vic.gov.au
or call our Advice Service on
1300 309 337 (local call cost).