



Information for supportive guardians and supportive administrators

The Victorian Civil and Administrative Tribunal (VCAT) appoints a supportive guardian or supportive administrator, when it finds that the person can make their own decisions, but sometimes needs support.

Your role is to support the person in making their own decisions, in accordance with the VCAT order, and in accordance with your obligations under the *Guardianship and Administration Act 2019*.

Types of decisions you can support the person to make

VCAT will specify in the order the types of matters you can support the person to make decisions about.

They may be:

- **financial matter(s)**, — **supportive administration** or
- **personal matter(s)** — **supportive guardianship**.

A **financial matter** is a matter that relates to the financial or property affairs of the person, and can include related legal matters. For example, paying expenses or withdrawing or depositing money in a bank or financial institution.

A **personal matter** is a matter that relates to the person's personal or lifestyle affairs, and can include related legal matters. For example, where and with whom the person lives, and medical decisions.

Types of powers

The order will specify the types of powers that you have.

Information power means you can access, collect or obtain personal information about the person from people or organisations (such as banks and utility providers), or assist the person to access, collect or obtain this information.

The information must be relevant to a decision the person is making and information that may lawfully be collected or obtained by the person.

You can also disclose information, if doing so is relevant to your role as supportive guardian or supportive administrator.

Communication power means you can communicate any information about the person that is relevant or necessary to the making of, or giving effect to, a decision of the person.

You can also communicate, or assist the person to communicate, their decision.

The **power to give effect to decisions** means you can take any reasonable action, or do anything that is reasonably necessary, to make a decision of the person happen. However, this authority does not include giving effect to decisions about significant financial transactions.

Significant financial transactions

Significant financial transactions include (but are not limited to):

- making or continuing an investment for the person

- undertaking any real estate transaction for the person
- dealing with land on behalf of the person, including taking out a loan or giving a guarantee on behalf of them
- undertaking a transaction for the person involving the use of their property as security
- buying and selling substantial personal property on their behalf.

Exceptions

You can give effect to a decision of the person to:

- enter into a residential tenancy for where they live or intend to live
- invest or continue to invest up to \$10,000 in total in one or more interest bearing accounts of an authorised deposit-taking institution. (For a list of these, see apra.gov.au)

How you must act

Under the Act you must:

- act honestly, diligently, and in good faith
- exercise reasonable skill and care
- discuss anything about a supported decision with the person in a way they can understand and that will assist them to make the decision
- in your role, not assist the person to conduct any illegal activity
- not coerce, intimidate or in any way unduly influence the person into a particular course of action.

You must also act in accordance with the general principles in the Act.

These include that a person who requires support to make decisions, should be provided with practicable and appropriate support to enable them, as far as practicable in the circumstances, to:

- make and participate in decisions affecting them
- develop their decision-making capacity.

Conflicts of interest

You must avoid acting where you have, or may have, a conflict of interest. Any time that you *do* act to support the person where you have a conflict, you must make sure that the interests of the person are your primary consideration.

You must not use your role for profit

This means that you cannot receive any payment for supporting the person.

Advice of VCAT

If at any time you are unsure about the scope of the order or exercise of your power under the order, you can apply to VCAT for advice.

Reassessments

The order will ordinarily be reassessed by VCAT before 12 months. At that time, VCAT will consider whether you have complied with your duties.

Other things to keep in mind

- If there is a subsequent guardianship or administration order, this may affect your role. Contact the Office of the Public Advocate (OPA) Advice Service for more information.
- Your role is voluntary. Should you become unable or unwilling to continue in the role for any reason, and choose to resign, you should inform VCAT in writing.
- If the person you are supporting dies, you need to inform VCAT in writing.
- You can be charged with a criminal offence if you dishonestly use the role to obtain financial advantage for yourself or another person.

For more information, contact OPA's Advice Service on 1300 309 337 or visit publicadvocate.vic.gov.au



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