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## **ELDER LAW – FACT SHEET**

### **VCAT: GUARDIANSHIP AND ADMINISTRATION OVERVIEW**

The guardianship list at VCAT makes decisions about guardianship and administration.

#### **Who can apply?**

Anyone can make an application to VCAT if they are worried that an adult is not making reasonable judgments because of a disability, such as cognitive impairment as a result of dementia. Applicants commonly include an older person's adult children, siblings, other family members or step-family members or concerned third parties such as neighbours. VCAT must be satisfied that the needs of the person can't be met by any other less restrictive means than appointing a guardian or administrator.

#### **What is the difference between Guardianship and Administration?**

A guardian is empowered to make lifestyle decisions, such as where a person lives and who they live with, who can visit them, and what support services the person needs. A guardian may in some instances be able to make medical decisions on behalf of the person.

An administrator can make legal and financial decisions, such as paying bills, managing investment portfolios, banking, and property related decisions.

In both cases, the appointed decision maker must act in the best interests of the represented person and must encourage that person to participate in decision making to the extent possible. An administrator must not allow their interests to conflict with the represented person's interests.

#### **What if a Guardian or Administrator is not meeting their obligations?**

Guardianship and administration orders are reviewed at least every three years to consider whether the order is still necessary.

A party to the original hearing can also apply for:

- Reassessment of the original order, if it is not working in the interests of the represented person.
- Revoke the original order.
- Rehearing of the original application, if it is believed that VCAT has made an error in its initial decision.

VCAT can also hear compensation applications regarding powers of attorney in certain circumstances.