

# *Application to Revoke a Financial Management Order* under s88 of the NSW Trustee and Guardian Act 2009



This information sheet has been provided to give information about the process for applying to the Mental Health Review Tribunal to have a financial management order revoked.

## **When can the Tribunal revoke a Financial Management Order?**

The Tribunal can only revoke a financial management order if:

- the original order was made by the Mental Health Review Tribunal or a Magistrate;
- the protected person is or was
  - a patient under the *Mental Health Act 2007*, or
  - a forensic patient under the *Mental Health (Forensic Provisions Act) 1990*, and
- the Tribunal is satisfied that:
  - the protected person is now capable of managing their own financial affairs, or
  - it is in the best interests of the protected person to have the order revoked.

## **Who can apply?**

Only the person whose affairs are under management (the protected person) is able to apply to have a financial management order revoked. Family members or professionals involved with the protected person are able to assist them to make an application however the application itself must be made by the protected person.

## **How does a protected person apply?**

To apply to have an order revoked the protected person should complete the attached application form and send it to the Tribunal. The onus is on the protected person to provide evidence or other information in support of the application. This may be reports from a professional person involved in their care and/or other information from persons involved in their life e.g. family, friends, designated carer or principal care provider. Reports should address why it is thought the protected person is capable of managing their affairs and/or whether it is in their best interests to have the order revoked and the evidence for these opinions. The report should also detail the qualifications and experience of its author and the nature of their contact with the protected person.

## **How does the protected person get supporting evidence?**

The protected person should contact their case manager, psychiatrist, doctor or other professional currently involved with them and ask for a report to be prepared that addresses the protected person's current ability to manage their financial affairs and/or why it would be in the person's best interests to have the order revoked. This report/s should be sent to the Tribunal with the application. The reports can also be sent directly to the Tribunal by the person who prepares the report.

The protected person can also provide letters and other supporting material from family members, friends or other involved people.

The Tribunal will consider all evidence it receives, even if the evidence does not support the application.

## **What happens after the application is received?**

Once the application and supporting evidence is received arrangements will be made for a hearing. Letters will be sent to the protected person, their case manager and other relevant involved people. A letter will also be sent to the NSW Trustee and Guardian asking for a report to be provided to the Tribunal.

At the hearing the Tribunal will talk to the protected person and other involved people. The Tribunal will consider all evidence it receives, even if the evidence does not support the application.

## **Can the protected person get legal assistance?**

Yes, the protected person can be assisted by a solicitor of their choice or they can contact the Mental Health Advocacy Service for assistance on 02 9745 4277. Legal Aid may be available based on a merits test.

**If you require any further information or assistance please contact the Tribunal at:  
Mental Health Review Tribunal PO Box 247, GLADESVILLE PARK NSW 1675  
Phone: (02) 9816 5955 Toll Free: 1800 815 511 Fax: (02) 9817 4543**