

Information Sheet: Financial Management Orders



What is a Financial Management Order (FMO)?

If a person with a mental illness or mental disorder is unable to manage their own financial affairs the NSW Trustee and Guardian Act 2009 allows for a Financial Management Order (FMO) to be made. The Mental Health Review Tribunal (the Tribunal) is one of the bodies with the power to make FMOs for management of part of or the whole of an estate. FMOs can also be made by the Supreme Court and the Guardianship Division, NSW Civil and Administrative Tribunal (NCAT).

When the Mental Health Review Tribunal makes a FMO, it appoints the NSW Trustee to manage the financial affairs of the person. The NSW Trustee manages the property, business and financial interests in close consultation with the person, and if appropriate, his or her nominated friend, relative, guardian or designated carer or principal care provider. The actual day to day management of the person's affairs is undertaken by staff who work for the NSW Trustee.

When will the Tribunal make a FMO?

The Tribunal can only make a FMO for a person who is a patient in a mental health facility under the Mental Health Act 2007. This could be a person who is a voluntary patient, an involuntary patient or who is detained (as an assessable person) in hospital and who has not yet had a mental health inquiry.

The Tribunal will have a hearing at which time the person's ability to manage his or her affairs is assessed. The assessment is made by the Tribunal panel (comprising either a lawyer at a mental health inquiry or a three member panel of a lawyer, a psychiatrist, and a member with other suitable qualifications or experience). The Tribunal will consider reports from professionals who know the patient, as well as relevant information from the patient, their families, carers, friends, etc as appropriate. The Tribunal must make a FMO if it is satisfied that the subject person is not capable of managing his or her own affairs.

Interim orders can be made pending further consideration of whether the person can manage his or her own affairs, but must be for a specified period not exceeding six months. Where an interim order is made the Tribunal may order that it be reviewed, or review it at any time on its own motion. If an interim order would cease to have effect before the completion of a review the order is taken to be extended until the review is completed.

Does a FMO continue after the person is discharged?

Yes. A FMO continues even after the person ceases to be a patient in a mental health facility. If it is not an interim order, the FMO will only come to an end if it is revoked or successfully appealed against.

When the Tribunal makes a FMO, what do the NSW Trustee do?

The financial management services provided by the NSW Trustee to the person whose financial affairs have been made the subject of a FMO include:

- protecting assets and legal rights;
- facilitating the buying and selling of a home;

Information Sheet: Financial Management Orders



- organising an adequate cash flow to pay bills and assist daily living;
- liaising with financial and legal institutions;
- managing a business and making investments.

Can relatives/friends be involved in the management of the person's affairs?

The Tribunal cannot appoint a relative, carer or friend as the actual manager of a person's estate when it makes a FMO, it can only appoint the NSW Trustee.

However, the NSW Trustee is committed to working with the person subject to the order, and their family, to make sure the best possible decisions are made taking into account the individual circumstances of the person. If the person's relatives, carers or friends are already involved in the management of the person's financial affairs, then the NSW Trustee may allow this to continue after the Tribunal has made a FMO.

Are fees charged for managing a person's financial affairs?

The Office of the NSW Trustee does charge fees for managing a person's financial affairs. Details of these fees can be obtained from the NSW Trustee by phoning 1300 360 466 or (02) 8688 2600.

Can a patient appeal against a FMO made by the Tribunal?

Yes. A person can appeal to the Supreme Court or the NSW Civil and Administrative Tribunal (NCAT) against a FMO made by the Tribunal. An appeal to the NCAT may be made by the person to whom the order relates, or any other person who was a party to the proceedings in which the order was made. For more information contact NCAT on 1300 006 228.

When can the Tribunal revoke a FMO?

If the FMO was made by the Tribunal or a Magistrate and the person is (or was and has ceased to be) a 'patient' under the Mental Health Act 2007 or a forensic patient under the NSW Mental Health (Forensic Provisions) Act 1990, he or she may apply to the Tribunal to have their order revoked. The Tribunal must be satisfied that the person has regained the capability to manage his or her affairs or that it is in the person's best interests for the FMO to be revoked. An application form and further information can be obtained from the Tribunal by visiting our website .

Can the NSW Trustee terminate management?

Yes. If the NSW Trustee is satisfied that the person can manage their own affairs, and they are no longer a patient in a mental health facility, it can terminate the FMO.

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