

APPLICATION UNDER THE DISABILITY ACT 2006

ABOUT THIS FORM

Use this form only for applications made under the *Disability Act 2006* in the Human Rights Division.

Do not use this form if you want VCAT to appoint a guardian, an administrator or make an order under other legislation.

You must send a copy of your completed application to the person you are applying about and other interested persons, including any primary carer, nearest relative, legal representative, and any existing guardian or administrator.

PRIVACY INFORMATION

For a copy of VCAT's privacy statement, go to www.vcat.vic.gov.au/privacy.

NEED HELP WITH YOUR APPLICATION?

If you have any questions about completing this form, contact our Customer Service team:

- email humanrights@vcat.vic.gov.au
- call 1300 01 8228 (1300 01 VCAT) between 9 am and 4.30pm Monday to Friday
- go to VCAT Human Rights Division at Ground Floor, 55 King Street, Melbourne VIC 3000. We are open Monday to Friday from 8.30 am to 4.30 pm.

APPLICANT DETAILS

The applicant is the person who makes this application.

1. What is your role in this application?

- Senior Practitioner (OSP)
- Office of the Public Advocate (OPA)
- Authorised Program Officer (APO)
- Person with disability
- Other, please specify

2. Details of the applicant

Given names

Family name

Do you wish to be identified as a person of Aboriginal and/or Torres Strait Islander descent?

- Yes No

3. Address

This will be the address VCAT uses to correspond with you.

Organisation (if applicable)

Street address

Suburb State Postcode

Phone number

Email

4. Has a previous application about this person been made to VCAT?

No

Yes, provide the VCAT reference number/s below:

VCAT reference number

DETAILS OF THE PERSON YOU ARE APPLYING ABOUT

5. Are you making this application about someone else?

Yes

No, skip to Question 9

6. Details of the person

Given names

Family name

7. Address

Street address

Suburb State Postcode

Phone number

Email

8. Date of birth of the person to be represented (DD/MM/YYYY):

PRIMARY CARER'S DETAILS

9. Does the person have a primary carer?

Yes

No – skip to Question 13

10. Details of the primary carer:

Given names

Family name

11. What is the primary carer's relationship to the person you are applying about?

For example, partner, parent, relative, child, etc.

12. Address

Street address

Suburb State Postcode

Phone number

Email

DETAILS OF ANY KNOWN REPRESENTATIVE

13. Is the person who the application is about represented by a lawyer, advocate or other representative?

- Yes
- No – skip to Question 16
- Don't know – skip to Question 16

14. Details of representative

Given names

Family name

15. Address

All correspondence will be sent to the representative.

Organisation (if applicable)

Street address

Suburb State Postcode

Phone number

Email

DETAILS OF ANY KNOWN RELATIVES AND/OR INTERESTED PARTIES

We need to ensure people with an interest in the person you are applying about are aware of this application.

Provide details of any relatives or interested parties of the person you are applying about, including their partner, parents, children or siblings.

Person 1

16. Details of relative and/or interested party

Given names

Family name

17. Address

Organisation (if applicable)

Street address

Suburb

State

Postcode

Phone number

Email

18. The relationship to the person you are applying about:

Person 2

19. Details of relative and/or interested party

Given names

Family name

20. Address

Organisation (if applicable)

Street address

Suburb

State

Postcode

Phone number

Email

21. The relationship to the person you are applying about:

Person 3

22. Details of relative and/or interested party

Given names

Family name

23. Address

Organisation (if applicable)

Street address

Suburb State Postcode

Phone number

Email

24. The relationship to the person you are applying about:

If there are other known relatives or interested people, include an attachment to this application form with their details.

REASONS FOR THE APPLICATION

25. Briefly explain your reasons for making this application:

26. What is the nature of the person's disability?

- Intellectual disability
- Developmental delay
- Sensory, physical and/or neurological impairment and/or acquired brain injury

HEARING ARRANGEMENTS

All parties listed in your application must attend the VCAT hearing.

We offer a range of support services for people with disability, language difficulties and to help with accessibility. Let us know of your needs so we can make arrangements for the hearing.

27. Are there any exceptional circumstances preventing the person who this application is about from attending the VCAT hearing? If so, explain below:

28. Does anyone mentioned in the application need special assistance at the hearing?

Help accessing the venue (e.g. wheelchair access)

Interpreter required

Language:

Assisted communication (e.g. assistive listening device or hearing loop)

Personal safety concerns

Attend the hearing by phone or video link

Other – provide more detail on the next page

Provide more detail about who needs the forms of assistance you have indicated and why?

WHAT DO YOU WANT VCAT TO DO?

29. Select at least one type of application you want to make:

Review of a decision as to disability by the Secretary

- S50(A) Application to VCAT for review of decision as to disability (application by a person with a disability or a person on behalf of a person with a disability).
You must make an application within 28 days after being notified of the decision.

Admission to a residential institution

- S88 Review a decision to admit person to a residential institution.
You must apply within 28 days after the day you were notified of the decision or the day on which the statement of reasons is given (whichever is later).

Date person was notified of decision (DD/MM/YYYY):

Date statement of reasons given (DD/MM/YYYY):

Appointment of an Authorised Program Officer

- S132ZN(1)a Review a Senior Practitioner's decision to refuse the approval of an appointment of an Authorised Program Officer (application by a registered NDIS provider).

You must apply within 28 days after the day you were notified of the decision or the day on which the statement of reasons is given (whichever is later).

- S132ZN(1)b Review a Senior Practitioner's decision to revoke the appointment of an Authorised Program Officer (application by a registered NDIS provider).

You must apply within 28 days after the day you were notified of the decision or the day on which the statement of reasons was given (whichever is later).

Restrictive practice (including intervention, restraint and seclusion)

- S141(b) Review the decision by the Authorised Program Officer to authorise the use of a regulated restrictive practice and, as the case requires, the decision by the Senior Practitioner to approve the use (application by the Public Advocate).

You must apply within 28 days after receiving the notification.

- S144(1)(a) Review an Authorised Program Officer's decision under section 136 to authorise the use of a regulated restrictive practice on the person if that decision did not require the approval of the Senior Practitioner (application by the person).

You must apply within 28 days after the day on which the person or provider is notified of the decision.

- S144(1)(b) Review an Authorised Program Officer's decision under section 136 to authorise the use of a regulated restrictive practice on the person and the Senior Practitioner's decision under section 143 to approve that use (application by the person).

You must apply within 28 days after the day on which the person or provider is notified of the decision.

- S144(2) Review of a decision by the Senior Practitioner under section 143 not to approve the use of a regulated restrictive practice (application by disability service provider or a registered NDIS provider).

You must apply within 28 days after the day on which the person or provider is notified of the decision.

About a residential treatment facility

- S153 (6&7) Variation of a treatment plan

Application by Authorised Program Officer:

Is this application to approve a material change to a treatment plan about an increase in the level of supervision or restriction?

- Yes No

Application by Senior Practitioner:

Has the Senior Practitioner approved a material change to the treatment plan because of an emergency?

- Yes No

- S154 Annual review of a treatment plan (application by Authorised Program Officer).

You must make your first application within 6 months of the person's admission to a residential treatment facility and any later review, no later than 12 months from the previous VCAT review.

Date criminal order made (DD/MM/YYYY)

Expiry of criminal order made (DD/MM/YYYY)

Date entered residential facility (DD/MM/YYYY)

Please indicate which of the following orders allow for compulsory treatment in this case

- S152(2)(a) Residential treatment order
- S152(2)(b) Parole order
- S152(2)(e) Extended supervision order
- S152(2)(f) Supervision order or interim supervision order within the context of the *Serious Offenders Act 2018*.

- S155 Review of a treatment plan (application by Authorised Program Officer, Senior Practitioner or resident).

- S157(3) Review an Authorised Program Officer's decision to refuse to grant special leave of absence (application by resident).

About a security resident

- S168(1) Annual review of a treatment plan and security order (application by Authorised Program Officer).

You must apply at intervals of 12 months or less.

- S169(1) Review a treatment plan (application by Authorised Program Officer, Senior Practitioner or security resident).

- S177(1) Recommendation that a security resident be transferred to a prison (application by security resident).

Supervised treatment order

- S191(1) Supervised treatment order about a person who has an intellectual disability (application by an Authorised Program Officer).

The person must be residing in a residential service/an SDA enrolled dwelling as an SDA resident under and SDA residency agreement/accommodation approved by the Senior Practitioner, have an approved treatment plan and meet the criteria in S193(1A).

- S192 Interim supervised treatment order (application by Authorised Program Officer).

- S194(1) Order directing the Authorised Program Officer for a primary service provider to make an application under S191 (application by the Public Advocate).

- S195 (4&5) Variation of a treatment plan for a person with a disability.

Application by Authorised Program Officer:

Is this application to approve a material change to a treatment plan relating to an increase in the level of supervision or restriction?

Yes No

Has the Senior Practitioner approved a material change to the treatment plan because of an emergency?

Yes No

- S195 (5A&5B) Variation of a treatment plan and/or review of supervised treatment order for a NDIS participant

Application by Authorised Program Officer:

Is this application to approve a material change to a treatment plan or a behaviour support plan relating to an increase in the level of supervision or restriction?

Yes No

Application by Senior Practitioner:

Has the Senior Practitioner approved a material change to the treatment plan or a behaviour support plan because of an emergency?

Yes No

- S196(1) Review, variation or revocation of a supervised treatment order or treatment plan (application by Authorised Program Officer for a primary service provider, Senior Practitioner or the person).

Note section 196(2), circumstances when an application cannot be made to vary a supervised treatment order or treatment plan.

- s196(4E) Application by Senior Practitioner to be joined as a party
- s196(4F) Application by the Public Advocate to be joined as a party
- S196A(4) Application by Public Advocate directing the Authorised Program Officer to make an application under section 191(1) when the Public Advocate considers that a supervised treatment order is required to prevent a significant risk of serious harm to another person.
- s197 Rehearing of application in relation to a supervised treatment order (application by an Authorised Program Officer, Senior Practitioner or person subject to the order).
You must apply for a rehearing or for leave to apply for a rehearing within 28 days after the day VCAT made the order.

Assessment order

- S199A Review of Senior Practitioner's decision to make an assessment order (application by a person).

Other

- Don't know VCAT to determine.

ACKNOWLEDGEMENT

By completing this application, I understand and acknowledge that:

- To the best of my knowledge, all information provided in this application is true and correct.
- It is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT.
- I will send a copy of this completed application form to the person I am applying about and any other interested parties, including any primary carer, their nearest relatives, their representative, guardian or administrator as named in this application. I will notify VCAT as soon as possible if I am unable to do so.

Date of acknowledgement (DD/MM/YYYY):

DOCUMENTS YOU NEED TO PROVIDE

Prior to the hearing, you must provide documents that support your application.

This may include:

- | | |
|---|---|
| <input type="checkbox"/> Copy of recent medical reports | <input type="checkbox"/> Criminal orders |
| <input type="checkbox"/> Treatment plans | <input type="checkbox"/> Disability eligibility assessments |
| <input type="checkbox"/> Treatment plan certificates | <input type="checkbox"/> Mental health plans |
| <input type="checkbox"/> Behaviour support plans | <input type="checkbox"/> Implementation reports |
| <input type="checkbox"/> Disability eligibility assessments | <input type="checkbox"/> Neurological reports |

SUBMITTING THIS APPLICATION

You can submit your application to us by email, post or in person.

By email

Email humanrights@vcat.vic.gov.au

By post

Send to:

The Registrar
Human Rights List
Victorian Civil and Administrative Tribunal
GPO Box 5408 Melbourne VIC 3001

In person

Go to:

Victorian Civil and Administrative Tribunal
Ground Floor, 55 King Street, Melbourne
VIC 3000

Below is a list of terms that may be helpful when you make your application.

Applicant

The person who makes the application.

Authorised Program Officer (APO)

A person appointed by the disability service provider ensuring any use of restrictive practices or compulsory treatment for a person with disability is only used in accordance with the *Disability Act 2006*. APOs are responsible for submitting treatment plans to the Senior Practitioner and must make applications to VCAT following the receipt of an approved treatment plan.

Behaviour support plan

A plan developed for a person with disability which specifies strategies to be used in managing the person's behaviour, including proactive strategies to build on the person's strengths and increase their skills.

Capacity

An adult is deemed to have capacity if they have the ability to understand the consequences of a decision and can take responsibility for making a choice.

Certified copy

A copy of a document on which an authorised person has certified: 'this is a true and complete copy of the original'.

Compulsory treatment

The treatment of a person who is:

- admitted to a residential treatment facility or a residential institution under an order specified in section 152(2); or
- subject to a supervised treatment order.

Disability service provider

Either the Secretary, a person or body on the register of disability service providers.

Interested parties

People who play a significant role in the life or care of the represented person, including spouse, domestic partner, children, stepchildren.

Mechanical restraint

The use of a device to prevent, restrict or subdue a person's movement primarily to influence a person's behaviour. It does not include the use of a device for therapeutic or non-behavioural purposes.

Order

A legally binding decision by VCAT.

Other restrictive practices

Include the following but are not restricted to: environmental restraints, psycho-social restraints and consequence-driven strategies.

Primary carer

Any person who is responsible for providing support to the person with disability.

Public Advocate (Office of)

An independent office of the Victorian State Government, established to promote the rights of, and advocate for, Victorians with disability. The Public Advocate can act as a guardian of last resort on appointment by VCAT.

Rehearing

A hearing at which VCAT reconsiders matters which are the subject of the order.

Resident

A person who receives disability services in a residential service.

Residential treatment facility

An accommodation setting where compulsory treatment is provided to people with an intellectual disability.

Restrictive practice

Any practice or intervention that restricts the rights or freedom of movement of a person with disability or of an NDIS participant.

Seclusion

The sole confinement of a person with disability in a room or physical space where they cannot leave for a period of time.

Secretary

Secretary to the Department of Human Services.

Security resident

A person for whom a security order is in force.

Senior Practitioner (Office of)

A person generally responsible for ensuring that the rights of people who are subject to restrictive practices and compulsory treatment are protected and that appropriate standards about those practices are followed.

Supervised treatment order

A civil order made by VCAT about a person with an intellectual disability (who is receiving residential services) to prevent the risk of significant harm to others.

Treatment plan

A plan for the use of treatment on a person with disability prepared under section 153, 167 or 191 of the *Disability Act 2006*.