

Introduction to Special Powers

Due to changes to legislation for aged care providers which came into effect in 2021, Eldercare reviewed the process by which consent is obtained for Memory Support Units (MSU).

Under South Australian law, the South Australian Civil and Administrative Tribunal (SACAT) is required to authorise some types of *restrictive practices*, which are practices that infringe upon someone's rights or freedom of movement in order to minimise a risk of harm. Eldercare understands that a *special powers order*, otherwise known as a *section 32* as a reference to the specific section of the *Guardianship and Administration Act 1993* is required for some types of restrictive practices in South Australia, including for Memory Support Units.

Special powers orders require an application to SACAT. It is a routine process that representatives of Eldercare residents moving into MSU are required to complete. Special powers are in addition to any existing guardianship and administration orders - they do not replace or alter any current powers afforded to substitute decision makers. So as to not slow down the admission process for people needing care and support, Eldercare only requires proof of completed application to SACAT prior to admission.

Please find below a guide to completing the application to help families through this process. It takes approximately half an hour.

Guide to applying to SACAT for provision of special powers

1. Ensuring you have the required documents on hand.

Copies of the following documents need to be attached to the application. If you are aware of the existence of one of the listed documents but are unable to locate it, please contact site administration as Eldercare may have a copy on file.

- Medical Report
- Enduring Power of Guardianship (mandatory if in existence)
- Medical Power of Attorney (mandatory if in existence)
- Anticipatory Direction (mandatory if in existence)
- Advance Care Directives (mandatory if in existence)
- ACAT Assessment (if applicable)

2. Creating an account on the South Australian Civil and Administrative Tribunal (SACAT) website.

Visit <https://www.sacat.sa.gov.au/application-form> and click Apply Now. On the following page, create an account by clicking on the register button.



New Users

- SACAT strongly encourages customers to register an account for Online Services
- Registration requires a valid email address to access our new and enhanced features
- For more information about our Online Services [Click Here](#)
- Apply as a guest for a one-off application

Register for SACAT Online Services to

- Submit applications
- Check the status of current and past applications
- Access your case history
- Upload documents relevant to your cases
- Receive documents from SACAT

Payment Options

- Accepting BPay payments
 - 24/7 Credit card payments via our automated service
- For more details [Click here](#)



Email Address:

Password:

[Forgot password?](#)

Login

Don't have account? [Register](#)

- OR -

Apply as a guest

[Contact us](#) [SACAT](#)

After the account has been created, login to the account to continue the application.

3. Submitting the application via the SACAT website

After logging into your account, click Apply.

HOME

MY CASES

MY DOCUMENTS

SAVED FORMS



My Cases

View and manage your active cases



My Documents

View your documents



Saved Forms

View and resume your saved application forms



Apply

Apply and submit your application and supporting documents online

On the following page, enter any previous SACAT case or order reference numbers in Step 1. This may be a guardianship or an administration order.



Step 1

If your application relates to an existing SACAT case or order, please enter the SACAT reference in the box below. If not, go to Step 2

Validate

For example: enter 2014/SH008888 then click validate

Under step 2, enter 'special powers' in the keyword box.

Step 2

What is your application about?

Type a keyword here

special powers

Or

Select what your application is about

Select the type of application

Clear

Under step 3, select the most appropriate application type.

- If there is an existing Advanced Care Directive appointing a substitute decision maker, an Enduring Power of Guardianship or a Medical Power of Attorney select *Special Powers (Residence and/or Detention and/or Treatment)*.

Step 3 Pick an application - if you need an explanation about the application, select application help

Act or List	Application type
Internal Review Guardianship & Administration Act	Internal Review of Decision (Guardianship and Administration)
Guardianship (existing orders)	Request for variation or revocation of Guardianship Order
Guardianship (existing orders)	Request for variation or revocation of Special Powers
Guardianship (existing orders)	Special Powers (Residence and/or Detention and/or Treatment)

- If none of the above instruments are in place, select *Administration and/or Guardianship Order with/without Special Powers*.



Step 3 Pick an application - if you need an explanation about the application, select application help

Act or List	Application type
Guardianship and Administration	Administration and/or Guardianship Order with/without Special Powers
Internal Review Guardianship & Administration Act	Internal Review of Decision (Guardianship and Administration)
Guardianship (existing orders)	Request for variation or revocation of Guardianship Order
Guardianship (existing orders)	Request for variation or revocation of Special Powers

Select the applicant role in the drop down menu at the bottom of the page, then press continue.

The following screen will note that there is no application fee. Press continue.

If you selected *Special Powers (Residence and/or Detention and/or Treatment)*, please continue to the following page.

If you selected *Administration and/or Guardianship Order with/without Special Powers*, please refer to instructions on page 8.



Special Powers only – Advanced Care Directive, Guardianship Order, Enduring Power of Guardianship or Medical Power of Attorney already in place

Applicant

Select *I am the applicant* and enter your details by clicking the *add more* button.

Status: In progress

Application Parties

▼ Applicant

Special Powers (Residence and/or Detention and/or Treatment)

▼ Applicant Type

Please indicate if you are the applicant or a representative of the applicant.

A representative may *only* be a legal representative or other type of representative permitted by legislation or approved by SACAT.

* Applicant Type

I am the applicant

I am a Lawyer representing the applicant

▼ Applicant Details

Applicants

Title	Given Name(s)	Surname	Preferred Given Name(s)	Preferred Family Name
+ Add more				

Subject or person this application is about

Enter the resident's details. In most circumstances, the *person's attitude towards this application* will be 'unaware'.

Person's contact details

This refers to the contact details of the resident. Enter the contact details and street address of the Eldercare facility.

Interested Persons

Enter the details of all interested persons by clicking *add more*. This should include:

- Names of any other legally appointed guardians or substitute decision makers.
- Any other interested parties, such as other family members.
- Persons who may oppose the application (if applicable).



Application Parties

▼ Interested Persons

Interested Persons		
Title	Given name(s)	Surname
+ Add more		

National Disability Insurance

Select 'No'.

Application Details

▼ National Disability Insurance

Special Powers (Residence and/or Detention and/or Treatment)

* Is this application being made as a result of the introduction of the National Disability Insurance Scheme (NDIS)?

- Yes
 No

Related Applications/Orders

Select 'yes' to the following question if the existing order is any of the listed. Select 'no' if the existing order is a SACAT guardianship order.

* Does the person have an Advance Care Directive, Enduring Powers, Medical Power of Attorney or Anticipatory Direction?

- Yes
 No

Select 'yes' in response to a relevant order that is in place and enter the date. An electronic copy of the document can be attached.

Special Powers (Residence and/or Detention and/or Treatment)

Enter the details of any related applications or orders.

* Does this application relate to an existing application or order?

- Yes
 No

Reasons for this application

Input that "the person resides within a Memory Support Unit in an aged care facility". Tick the checkboxes for 'Residence' and 'Detention'.



Special Powers (Residence and/or Detention and/or Treatment)

Provide a brief description why you are applying below.

You may provide more information by uploading documents at the end of this application.

* Provide a short summary of your application

The person resides within a Memory Support Unit in an aged care facility.

▼ Additional authority to enforce decisions

Please see the following Fact Sheet for more information on what each authority will enforce:

[Information about restrictive practices](#)

Do you seek additional authority to enforce decisions with regard to:

- Residence
- Detention
- Treatment and Care

Hearing Availability and Location

Input that the application is not urgent and indicate your availability to attend the hearing. Due to COVID-19 restrictions, hearings are currently being held by video conference or phone – please indicate your preference in the drop down menu.

Hearing Special Requirements

Record 'Yes' to indicate that there is a physical or medical reason that the person cannot attend the hearing. In the free text box, explain why the resident is unable to attend. Suggested wording is "the person lives with dementia in a secure unit, would be unable to understand the proceedings and may find them distressing"



Special Requirements

Should you physically be unable to attend in person or live in rural South Australia or interstate, you should contact the Tribunal on 1800 723 767 to discuss attendance options.

* Is there any physical or medical reason the person cannot attend a hearing? 

No

Yes

* Please provide details why the person cannot attend the hearing

The person lives with dementia in a secure unit, would be unable to understand the proceedings and may find them distressing.

Hearing Security

On the page querying security requirements, report if any members of the interested parties are likely to be a risk to themselves/others. It is expected that this is unlikely due to the hearings taking place by phone/video conference.

Additional Documentation

SACAT cannot process your application without the required documents

If you don't have electronic copy available to upload now you can email the document later to

sacat@sacat.sa.gov.au

or post the documents to:

SACAT
GPO Box 2361
Adelaide SA 5001

▼ Medical Report

Required attachment - Medical report

A medical report must be provided by a doctor, psychologist or psychiatrist. Medical Report forms are available on our website www.sacat.sa.gov.au

* Please provide a copy of the medical report

I will upload a copy of the documentation

I will deliver this documentation manually

The optional attachment section may be left blank, unless there is additional pertinent documentation you would like to provide. A copy of the ACAT assessment can be uploaded here, if available.

Review

Review all information, then submit the application. **Please continue with instructions on page 14.**



Guardianship AND Special Powers

Applicant

Select *I am the applicant* and enter your details by clicking the *add more* button.

Status: In progress

Application Parties

▼ Applicant

Special Powers (Residence and/or Detention and/or Treatment)

▼ Applicant Type

Please indicate if you are the applicant or a representative of the applicant.

A representative may *only* be a legal representative or other type of representative permitted by legislation or approved by SACAT.

* Applicant Type

I am the applicant

I am a Lawyer representing the applicant

▼ Applicant Details

Applicants

Title	Given Name(s)	Surname	Preferred Given Name(s)	Preferred Family Name
+ Add more				

Subject or person this application is about

Enter the resident's details. In most circumstances, the *person's attitude towards this application* will be 'unaware'.

Person's contact details

This refers to the contact details of the resident. Enter the contact details and street address of the Eldercare facility.

Interested Persons

Enter the details of all interested persons by clicking *add more*. This should include:

- Names of any other legally appointed guardians or substitute decision makers.
- Any other interested parties, such as other family members.
- Persons who may oppose the application (if applicable).

Application Parties

▼ Interested Persons

Interested Persons

Title	Given name(s)	Surname
+ Add more		



National Disability Insurance

Select 'No'.

Related Applications/Orders

Select 'No'.

Special Powers (Residence and/or Detention and/or Treatment)

Enter the details of any related applications or orders.

* Does this application relate to an existing application or order?

Yes

No

Application Purpose

Select 'Appointment of a Guardian' (Decisions about accommodation, healthcare and lifestyle)

Administration and/or Guardianship Order with/without Special Powers

* What type of order are you seeking?

Appointment of Administrator (Decisions about financial, legal or business affairs)

Appointment of Guardian (Decisions about accommodation, healthcare and lifestyle)

Enduring Powers

Select 'no'

Administration and/or Guardianship Order with/without Special Powers

These include an Advance Care Directive, Enduring Power of Guardianship, Enduring Power of Attorney, Medical Power of Attorney and Anticipatory Direction.

If you have an issue with how the current Substitute Decision Maker(s) is performing their role, you may first wish to seek to resolve that dispute with the Office of the Public Advocate which provides a dispute resolution service.

* Does the person have an Advance Care Directive, Enduring Powers, Medical Power of Attorney or Anticipatory Direction?

Yes

No

NOTE: If the person already has an Advance Care Directive (which includes an Enduring Power of Guardianship) appointing one or more substitute decision maker(s)/enduring guardians (which is the same role as a guardian would perform if appointed by SACAT) then you will also need to lodge an application to revoke the appointment of the substitute decision maker(s)/enduring guardians, etc.

Guardian

Describe how decisions are currently being made for the resident. To respond to *what issues currently exist?*, tick other, then input "the person lives with dementia and resides in a secure unit in an aged care facility". In stating a reason for the application, input that "the person resides within a Memory Support Unit in an aged care facility".



Administration and/or Guardianship Order with/without Special Powers

Guardianship Issues

* How are the person's medical, accommodation and lifestyle decisions currently being made?

- By the person
- By the person appointed by an Advance Care Directive (ACD)/Enduring Power of Guardianship (EPG)
- Informally by family or a friend
- Other

* What issues currently exist?

- There is nobody to assist with the person's medical, accommodation or lifestyle decisions
- The person is subject to physical or verbal abuse
- There is conflict between family and/or friends over what is best for the person
- The person is refusing medical treatment
- An Advance Care Directive (ACD)/Enduring Power of Guardianship (EPG) was signed after the person lost capacity.
- The person needs a greater level of care in a nursing home or hostel
- The person's behaviour is putting them at risk of harm or danger
- There is a risk to the person because of an exploitative relationship
- Other

* Details

The person lives with dementia and resides in a secure unit in an aged care facility

Input the details of the proposed guardian, which may be your details. If you do not wish to act as a guardian and have agreed with another party that they will be a guardian (e.g. another family member), input their details.



Proposed Guardian

- Proposed Guardian
- Family or Friend
- Public Advocate

Private guardian details

Proposed Guardians		
* Given Name	* Surname	* Relationship to person
<input type="text"/>	<input type="text"/>	<input type="text"/>
+ Add more		

Proposed alternative private guardian

In the event of death, absence or incapacity of an appointed guardian, provide details of a proposed alternative private guardian.

Given Name	<input type="text"/>
Surname	<input type="text"/>
Relationship to person	<input type="text"/>

Tick the checkboxes for 'Residence' and 'Detention'.

Special Powers

If SACAT appoints a guardian(s) should the guardian(s) consider applying for any or all special powers to enforce their decisions for the person.
Only a guardian or substitute decision-maker may apply for special powers

Is the guardian likely to require additional authority to enforce decisions with regard to:

- Residence
- Detention
- Treatment and Care

Reasons for this application

Input that "the person resides within a Memory Support Unit in an aged care facility".

Hearing availability and location

Input that the application is not urgent and indicate your availability to attend the hearing. Due to COVID-19 restrictions, hearings are currently being held by video conference or phone – please indicate your preference in the drop down menu.

Hearing Special Requirements



Record 'Yes' to indicate that there is a physical or medical reason that the person cannot attend the hearing. In the free text box, explain why the resident is unable to attend. Suggested wording is "the person lives with dementia in a secure unit, would be unable to understand the proceedings and may find them distressing"

Special Requirements

Should you physically be unable to attend in person or live in rural South Australia or interstate, you should contact the Tribunal on 1800 723 767 to discuss attendance options.

* Is there any physical or medical reason the person cannot attend a hearing? 

- No
 Yes

* Please provide details why the person cannot attend the hearing

The person lives with dementia in a secure unit, would be unable to understand the proceedings and may find them distressing.

Hearing Security

Report if any members of the interested parties are likely to be a risk to themselves/others. It is expected that this is unlikely due to the hearings taking place by phone/video conference.

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▼ Medical Report

Required attachment - Medical report

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- * Please provide a copy of the medical report
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 I will deliver this documentation manually

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Review



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4. Attending the hearing

The hearing is run by a tribunal member. Persons listed under the *interested parties* section of the application will be invited to attend. It is at the discretion of the tribunal member to decide who of the interested parties *must* attend.

5. Providing documentation arising from the outcome of the hearing to Eldercare.

A document will be provided to you stating the outcome of the hearing. Please send this document to consent@eldercare.net.au or provide a copy to site administration.

6. Signing an Eldercare Consent Form

A consent form will be provided to you by site staff. Eldercare believes that we already have consent to support our residents by using a Memory Support Unit - this written consent form provides an additional level of evidence.

