# Administrators video 1 - Responsibilities

*[Text: Administrator’s responsibilities: Will and preferences, Financial decisions you should (and shouldn’t) be making, and Conflicts of interest and how to avoid them]*

Welcome to the new administrator session.

VCAT appoints administrators and guardians to make decisions for represented persons, that is, persons who are no longer able to make for themselves reasonable decisions in relation to financial and legal affairs, and personal matters such as accommodation and medical treatment.

This information session will focus on the role and duties of administrators, that is persons who will make financial and legal decisions and manage the financial affairs of the represented person.

You have been or may be appointed by the Tribunal under the Guardianship and Administration Act 2019.

In this session we will assume you have full decision-making authority.

Under this Act you are to make decisions based on the represented person’s **wills and preferences**. Wills and Preferences are not defined in the Act, but it could be thought of as **what is important to the represented person.**

What is important to them must guide the decisions made for them, as far as possible.

A person’s will may be thought of as what drives them and gives their life meaning. Sometimes this can only be seen through their actions.

A represented person’s **preferences** reflect the things they like.

**Wills and preferences** may arise from experience, knowledge or intuition.

**Wills and preferences** can change over time.

It is expected under the Act that greater effort will be made to support people to develop and convey their will and preferences.

The Act says that you should only override the represented person’s wills and preferences if it is necessary to do so to **prevent serious harm** to them.

As an administrator you are to act in a way that least restricts the represented person’s ability to make and act on their decisions.

You must give support to the represented person, as far as possible by:

* Being an advocate for the represented person
* Making and taking part in decisions affecting them and advise them accordingly
* Encouraging and assisting them to develop their capacity to make financial and legal decisions.
* Expressing what’s important to them.
* If the represented person cannot tell you what’s important to them, you must try to work this out, by asking relatives, close friends and carers.

If you cannot work out what’s important to them, you must act in a way that promotes their personal and social wellbeing.

If the represented person has a companion animal, you need to act in a way that recognises how important the animal is to them and any benefits the animal gives them.

Upon the death of the represented person, any order appointing an administrator lapses and ends.

You as administrator are accountable for the decisions you make and the management of the affairs of the represented person.

You must act honestly, diligently and in good faith, use reasonable skill and care.

You must be prudent. You must aim to maintain the represented person’s capital. This may mean you act more conservatively than you may with your own investments. You must not profit from the position. You must not share confidential information gained as administrator, unless allowed by the administration order or by law.

As administrator you have the power to make financial decisions, to

* Make funds available for the represented person
* Pay expenses and debts
* Insure, maintain or improve the represented person’s property
* Collect income and other money owed to them
* Invest their money
* Lease and sell their property (unless VCAT require prior approval)
* Run their business
* Sign contracts on their behalf
* Pay maintenance for their children and other dependents

All investments and bank accounts must be held in the name of the represented person, unless VCAT decides that this is not required.

A represented person does not have decision making capacity. Therefore, generally they are not able to enter into a contract, and the administrator may be able to recover money spent or have the contract declared invalid by a court.

Avoid conflicts of interest or any perception of a conflict of interest. Conflicts of interest occur when the administrator borrows money from the represented person, or buys an asset from the represented person, or transacts whereby the administrator must either make a decision in the represented person’s best interests which conflicts with their own best interest. If this situation occurs, you should seek advice from the Tribunal by way of a hearing.

If a guardian is appointed to make decisions about the personal matters, such as accommodation, where the represented person is to live, medical treatment, access to services, you as administrator must consult and work closely with the guardian. The guardian’s decisions will prevail over the decisions of the administrator, unless the decision of the guardian would seriously deplete the represented person’s assets.

Regularly review investments, seek advice from financial planners, and specialists in aged care, and reduce financial risks. By seeking advice, this will reduce the administrator’s risk of acting imprudently and inappropriately.

Take a copy of the VCAT order to the represented person’s bank, Centrelink, utility company, insurance company, lender.

Be aware banks may be frustrating to deal with, and not initially accept the VCAT order. Refer to each major bank’s financial orders department.

Administrators are not entitled to charge a fee unless they act as a professional administrator, such as a lawyer or accountant.

*[On-screen visual: VCAT logo]*

*[For more information about Administrators visit* [*vcat.vic.gov.au/administrators*](https://www.vcat.vic.gov.au/administrators)*]*