

VCAT ADMINISTRATION

RUNNING THE FINANCIAL AFFAIRS OF THOSE IN NEED



**Burke & Associates
Lawyers**

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About us

Burke and Associates has a long and proud history. We are now about 20 strong.

Since 1953 the firm has had a continuous role in private advisory legal work and, in particular, helping to manage the estates of those living with disability and also deceased estates.

It is that long history that prompted other lawyers to nominate us to VCAT as an Administrator when family difficulties or personal circumstances required an independent administrator. VCAT has since then made its own appointments.

More generally, we are a firm that targets high net-worth clients and the small to medium-sized enterprises they own and operate. For them, outcomes matter deeply.

Over the decades we have developed a wide and trusted network of accountants, financial planners, neuropsychologists, home renovators, estate agents and a raft of others to whom we refer appropriate work, but under our supervision.

Services

Increasingly the financial affairs of a Represented Person (the term used in the Guardianship & Administration Act to refer to someone found to be disabled) are complex. Instead of the individual holding all assets, as used to be the case, there is often now a web of companies, trusts and self-managed superannuation funds.

At **Burke and Associates** we bring the requisite skills to manage this matrix to best effect.

Change

Over many years we have learned that a change of financial control often occasions high emotion, strained relationships and tough decisions.

Due to the effects of incapacity the financial affairs of Represented Persons are often in a mess and present challenge.

Experience with insolvency, liquidation and bankruptcy prove handy.

Tax Consulting

Represented Persons can benefit from lawful transactions to legitimately minimise their taxation liability.

We are able to draw upon our close relationships with trusted accountants to quickly source advice on income taxes, GST, capital gains taxes, stamp duty, international taxes, transaction taxes and employment taxes amongst others.

Superannuation

An ever-increasing proportion of an individual's wealth is being held in a superannuation fund, often a self-managed superannuation fund with a corporate trustee.

An ideal superannuation strategy builds and supports wealth for retirement, whilst ensuring all regulatory requirements are met, and that the concessional taxed structure is not compromised.

At Burke and Associates we work with trustees, government agencies, members and employers in all segments of the industry: large fund compliance, self-managed funds, administration, employer obligations, member retirement planning and estate planning.

Specialist advice includes tax effective benefit strategies, asset protection strategies, estate planning considerations and expert business advice.



Investment Advisors

We work closely with trusted and insured investment advisers to maximise wealth by optimising returns and minimising risk, fees and taxes. We make sure the advice is tailored to the needs, objectives and risk profile of each individual, family, fund or not-for-profit organisation.

Bookkeeping and Accounting

Managing the Represented Person's financial affairs on a day to day basis can be time consuming and stress inducing. At **Burke and Associates** we have well developed systems and procedures that enable us to swing in and take charge with minimal stress.

Private Business and Family Network

It may be that the Represented Person's affairs extend to active business assets, or that the Represented Person has a particularly high net worth and may have unique financial management needs.

Our team offers a comprehensive service. Core service offerings may include quasi board meetings, transparency on financials and banking, monthly and quarterly reporting, annual compliance, preparation of management accounting, financial statements, income tax returns and business activity statements.

Skills

We take pride on our practical approach to dispute resolution. We deploy commercial solutions based on decades of experience and a real understanding of what works in the real world. Equally we do not equivocate when a decision is required.

If we hold true to any mantra it is to move efficiently and economically to a light touch administration that respects the Represented Person and preserved his or her estate for the long term.

Fees

VCAT has grappled with the issue of fees for independent administrators. By definition independent administrators are appointed in the more difficult and complex cases. Our lawyers have been involved in submissions to the Tribunal about such matters.

For the time being we operate on the basis that our fees be calculated on the Practitioner Remuneration Order. This is a public scale for legal work charges prepared independently by the Supreme Court of Victoria. The rates set out are much lower than our standard rates.

In many instances we have our files costed by an independent cost consultant to achieve greater transparency and as a protection to the Represented Person. And it is important to note that all costs claims have to be approved by the Tribunal in any event.

Dispute resolution skills

It is an unfortunate reality that there will often be family disputes regarding the Represented Person's affairs, and particularly the appointment of an Administrator. That is often the genesis of our appointment in the first place. Through our extensive experience, we have developed the skills to manage family disputes.

In some instances we have established a quasi-family board so that family members are informed and given access to information, even though not empowered. It is amazing how such a process can dissipate distress, build confidence, alleviate suspicion and ventilate grievance.

Accountability

As lawyers and administrators, we are accountable on multiple levels:

- We are Officers of the Supreme Court of Victoria;
- We are licensed legal practitioners;
- We are audited by the Legal Services Commission;
- We are audited by our private auditors;
- We are subject to VCAT oversight.

Reporting process

If so authorised by VCAT we are able to provide regular reports to the family of the Represented Person. It is our experience that keeping stakeholders informed often quells dispute. By being transparent and proactive we make sure there are no surprises.



The market for Represented Person services

The market for VCAT appointed independent administration has predominantly fallen to legal practitioners, accountants in smaller practices and trustee companies.

Because **Burke and Associates** has the decades of experience and the depth of resourcing we are able to effectively service Represented Persons' needs and thus keep costs affordable. That is because we have well developed systems and team members who can provide extensive support.

Nature of appointments

We generally propose to VCAT that two of our lawyers be appointed as Administrators, jointly and severally, to manage the affairs of the Represented Person. This is a common practice at VCAT in the Guardianship List. It means that there is always a decision maker available.

Our team

Anthony (“Tony”) Burke

Tony has been a lawyer for more than 35 years. He has been appointed as an Administrator by VCAT on numerous occasions, including to manage the largest estate ever before the Tribunal. That estate was about \$120 million.

Tony has done much in his legal career. In 2008 he was President of the Law Institute of Victoria and for two years a director of the Law Council of Australia. He has represented the legal profession in many countries and has been honoured for his legal writing.

When not being a lawyer Tony keeps himself fit. He has competed in triathlon at two world championships as part of the Australian age group contingent. He also served for several years as President of Triathlon Victoria.

In 2013 he attempted to swim the English Channel but aborted that attempts after 6 hours in 12⁰ water.



Rosanna (“Rosy”) Roberts

Rosy is a Principal of Burke & Associate Lawyers and her practice focus is in Litigation, Alternative Dispute Resolution, Family Law and VCAT Administration.

Rosy is highly experienced in complex VCAT appointed administration matters and is appointed by VCAT to act as co-Administrator with Tony. Her experience in each of these other areas of law underpins her role as an Administrator in the management of the financial affairs of the Represented Person. She is astute at identifying and managing family disputes.

Beyond her wide academic qualifications Rosy has done advanced management training including financial analysis. She also has a leadership role in the profession.



Rohani Bixler

Rohani has practiced exclusively in the areas of estate planning, estate administration and estate litigation since 2006. Rohani has extensive experience in assisting people with disabilities, and managing Special Disability Trusts and Vulnerable Beneficiary trusts.

She has an excellent understanding of the complex financial and emotional issues which can arise upon the death of a loved one, and in the years leading up to this, particularly upon loss of decision making capacity.

Rohani has been chosen by numerous clients to be their trusted decision-maker, nominated as Financial and Medical Power of Attorney, as well as the Executor of Estates.

Outside of the law, Rohani previously managed a domestic violence shelter in Chico, California (2001-2004), and participates on various boards, including Spark Youth Productions, Community Lifestyle Accommodation (disability support), and Monash Youth Mental Health Advisory Board.



Shabitha Sumanathasa

Shabitha's practice focus is in Wills & Estates, Family Law and VCAT Appointed Administration.

She supports the team in solving problems and finds the right solution for the Represented Person in a timely manner ensuring that their current and future needs are met. This requires great attention to detail.

Shabitha works to ensure that the Represented Person, family members and third parties are consistently updated when required and that all legal issues that may arise are dealt with promptly.



Emma Dickens

Emma provides extensive support to the VCAT appointed Administrators and solicitors working in the VCAT administration practice area at the firm.

She manages the day-to-day administrative tasks of the Represented Person including payment of ongoing expenses. Her work brings her into daily contact with accountants, financial institutions and contract suppliers, leading to informed financial literacy.

Emma works closely with the Administrators and these third parties to ensure that all decisions made in relation to the Represented Persons' financial affairs are in their best interests.

She is a safe pair of hands to support Administrators.





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