

Form Number 10 (version 1)

Queensland Civil and Administrative Tribunal Act 2009 (section 33)

# Application for administration/guardianship appointment or review – *Guardianship and Administration Act 2000*

**IMPORTANT**

Please read each page carefully before completing the application:

- a) Attachments required are identified with the symbol "▶"
- b) You may not need to apply for both administration and guardianship
- c) If you do not understand terms used in this form, please refer to the glossary at the end.

**For office use only**

<b>Case number and type:</b>	
<b>Adult number:</b>	
<b>Date:</b>	
<b>Registry:</b>	
<b>Sent to:</b>	

**Applicants to complete:****Who is the application about? (the adult)**

Title

Given name/s

Surname/Family name

**Who is filling out this form? (the applicant)**

Title

Given name/s

Surname/Family name

**Your relationship to the adult?****Does this application relate to the use of restrictive practices?**

(see glossary at the end for a definition of restrictive practices)

Yes

No



**What are the adult's current contact details?** (if different from above, e.g. hospital, respite)

**Organisation** (if applicable)

**Full postal address**

<input type="text"/>	
<input type="text"/>	<b>Postcode</b> <input type="text"/>

**Telephone**

Daytime phone

Mobile phone

After hours number (if different)

**Fax**

**Email**

**What language(s) does the adult speak at home?**

**What is the adult's cultural background?**

**Would the adult require an English interpreter at the tribunal hearing?**

Yes  No

**Have you informed the adult about this application?**

Yes – how did the adult respond? (please describe briefly)  
 No – why not? (please explain briefly)

<input type="text"/>
<input type="text"/>
<input type="text"/>

**In some cases, the tribunal will expect the adult to attend the hearing.**

**Who would be accompanying the adult to the hearing?** (contact details must be provided)

Title

Given name/s

Surname/Family name

**Telephone**

Daytime phone

Mobile phone

After hours number (if different)

**Will the adult require any special assistance for the hearing?**

wheelchair/mobility access  
 for hearing impairment/loss

for speech impairment  
 for vision impairment/loss  
 other

## Please attach a photocopy of a document to substantiate the adult's identity

(▶ e.g. passport, driver's licence, pension card, Medicare card).

The tribunal retains discretion to establish identity to its satisfaction. The tribunal may ask for additional evidence to substantiate the adult's identity. In accordance with the provisions of section 249 of the *Guardianship and Administration Act 2000* documents collected under this part will remain confidential.

## DECISION-MAKING CAPACITY

### 2. What is the cause of the adult's impaired capacity?

*Provide specific details in the space below*

- acquired brain injury or cognitive disability (*as a result of accident, illness or other causes*)
- dementia (*mental confusion due to a condition such as Alzheimer's disease, senility or some other degenerative disease*)
- intellectual disability (*a condition that has affected the person since birth or early childhood*)
- psychiatric disability/mental illness (*a diagnosed condition such as schizophrenia or bi-polar affective disorder*)
- other (*any other condition that reduces the ability to make decisions about personal or financial matters, please specify*)

The person filling out the form is also responsible for obtaining a current *Report by Medical and Related Health Professionals* for the tribunal.

### The tribunal may be unable to have a hearing without this current report

A copy of the form to be used for the report is available:

- on the internet at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)
- by calling the tribunal on 1300 753 228.

The report should be completed by a health professional such as: geriatrician; psychiatrist; psychologist; Director of Nursing; a social worker; or general practitioner. It should **NOT** be completed by the person filling out this application. If necessary, the health professional may send the report directly to the tribunal after you have submitted your application.

Please telephone the QCAT registry prior to the submission of the application should you have other professional reports that are:

- comprehensive
- current, and
- directly related to the adult's decision-making capacity.

## ADULT'S PRIMARY CONTACTS

You must not withhold information from the tribunal about the names of people who may have an interest in this application.

### 3. Tick one of the following:

- there is nobody who may be interested in the application (e.g. siblings, children, service providers, advocates etc.)
- the following people may have an interest in this application (include people already mentioned in this application)

Photocopy this page as many times as you need to or provide the same information on a separate sheet of paper.

#### Name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

#### Full postal address

<input type="text"/>	
<input type="text"/>	<b>Postcode</b> <input type="text"/>

#### Telephone

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Daytime phone</i>	<i>Mobile phone</i>	<i>After hours number (if different)</i>

#### Fax

#### Email

#### Relationship to adult

#### Tick one box:

- I have spoken to this person and they agree with this application.
- I believe they will agree to this application but I have not been able to speak with them.
- I have spoken to this person and they do not agree with this application.
- I believe they will not agree to this application but I have not been able to speak to them.

## ADULT'S FINANCIAL POSITION

### 4. Please complete to the best of your knowledge

#### 4.1 Adult's fortnightly income

Pension		Other	
---------	--	-------	--

#### 4.2 Adult's fortnightly expenditure

Accommodation		Telephone	
Gas/electricity		Vehicle	
Food		Other	
Credit card/mortgage/other loan repayments			

#### 4.3 Adult's assets

Bank	Branch	Current balance
▶ please attach copies of relevant accounts/statements		<b>Total:</b>

#### 4.4 Other assets

		Approximate value
Real estate	Address	
Car	Model Rego No.	
Shares		
Superannuation	Company	
	Policy No.	
Other financial interests		

#### 4.5 Adult's debts

		Approximate value
Mortgage	Lender	
Other loans	Lender	
Credit cards	Detail of card 1	
	Detail of card 2	
Other debts	(outline below)	

## FINANCIAL AND LEGAL DECISIONS

An administrator is someone who can make decisions about financial matters for an adult with impaired decision-making capacity. The tribunal will only appoint an administrator if there is **no other way** to ensure that the interests of the person concerned are protected and their needs met. For example, you should consider applying if:

- the adult's financial interests are at risk – for example, the adult is being exploited
- disputes have arisen between informal decision-makers
- the adult is making or likely to make a decision that is financially detrimental
- documents (e.g. contracts) need to be signed on behalf of the adult.

The person you propose to be the administrator should be someone who is willing, competent and available. You can propose yourself, a family member, a friend, the Public Trustee or a private trustee company. The tribunal may only appoint someone who is:

- at least 18 years old
- not a paid carer (a paid carer does not mean someone receiving a carer's pension or similar benefit) or health provider for the adult, and
- not bankrupt or taking advantage of the laws of bankruptcy.

**Important:** *all person/s proposed as administrator/s (unless it is the Public Trustee of Queensland, or another trustee company) must complete and sign:*

- (a) **separate photocopies** of page 10 witnessed by a justice of the peace, commissioner for declarations or solicitor, and
- (b) a "*Financial management plan for proposed administrators*" (available on the internet at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au) or by calling the tribunal on 1300 753 228).

### 5. What financial decisions, if any, can the adult manage (e.g. managing the pension, simple personal purchases)? *(please specify)*


### 5.1 How are the adult's financial and legal decisions currently being made?

*(please tick and explain briefly below)*

<input type="checkbox"/>	by the adult
<input type="checkbox"/>	by an attorney designated under an enduring power of attorney <i>(▶ please attach a copy of the document and provide details about the attorney/s)</i>
<input type="checkbox"/>	by an administrator appointed by this tribunal or another Queensland legislation
<input type="checkbox"/>	informally by: <i>(please provide details in section 3 – primary contacts section)</i>
<input type="checkbox"/>	other <i>(please specify below)</i>

## 5.2 Describe the appropriateness of the arrangements?

(please tick and explain below)

- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | it is appropriate and the adult does not require an administrator (go to question 6)  |
| <input type="checkbox"/> | there is nobody in the adult's life to assist them in making financial/legal decisions  |
| <input type="checkbox"/> | the informal decision-maker has been told by a financial institution that they need formal authority  |
| <input type="checkbox"/> | there is conflict between decision-makers or family members   |
| <input type="checkbox"/> | the adult made an enduring power of attorney and did not have capacity to do so   |
| <input type="checkbox"/> | the current attorney or administrator is taking advantage of the adult financially ⇨ <i>If you believe this to be the case, you should first make a referral to the Adult Guardian on (07) 3234 0870. You should not proceed with this application.</i> |
| <input type="checkbox"/> | a contract needs signing  |
| <input type="checkbox"/> | financial abuse is occurring  |
| <input type="checkbox"/> | other (please specify)  |
|                          |   |
|                          |   |
|                          |   |
|                          |   |
|                          |   |

## 5.3 What financial/legal decisions currently have to be made for the adult?

(you may tick more than one)

- |                          |  |
|--------------------------|--|
| <input type="checkbox"/> | managing the adult's day-to-day finances, including the payment of bills   |
| <input type="checkbox"/> | managing the adult's Centrelink payments   |
| <input type="checkbox"/> | managing the adult's award of damages made pursuant to the order of the Supreme/District Court of Queensland on <input type="text"/> Insert date |
| <input type="checkbox"/> | managing the adult's real estate   |
| <input type="checkbox"/> | legal matters relating to the adult's financial or property matters (please specify)   |
| <input type="checkbox"/> | other (please specify)   |
|                          |  |
|                          |  |
|                          |  |
|                          |  |

<b>5.4 Is the adult or the adult's property at immediate risk?</b>	
<input type="checkbox"/>	no
<input type="checkbox"/>	the adult has signed a contract (▶ <i>please attach or provide details as to where this can be obtained</i> )
<input type="checkbox"/>	a nursing home has officially offered a placement and they require an appointment (▶ <i>please attach name and contact details of nursing home</i> )
<input type="checkbox"/>	large amounts of the adult's money are being used quickly/inappropriately (▶ <i>please attach or provide details</i> )
<input type="checkbox"/>	essential services are at risk or have been disconnected (▶ <i>please attach or provide list of services</i> )
<input type="checkbox"/>	other ( <i>please specify creditors and outstanding amounts</i> )
<b>5.5 Who should be the adult's administrator?</b>	
<input type="checkbox"/>	nobody ( <i>go to question 6</i> )
<input type="checkbox"/>	the Public Trustee of Queensland ( <i>go to question 6</i> )
<input type="checkbox"/>	yourself and/or somebody else ⇒ <b>all proposed administrators must complete and sign:</b> (a) <b>separate photocopies</b> of this page with a justice of the peace, commissioner for declarations or solicitor, and (b) a " <i>Financial management plan for proposed administrators</i> " (available on the internet at <a href="http://www.qcat.qld.gov.au">www.qcat.qld.gov.au</a> or by calling the tribunal on 1300 753 228, please ensure all proposed administrators have <b>signed</b> the management plan)



## PERSONAL DECISIONS

Now that you have considered the **financial** decision-making arrangements for the adult (whether there is a need for an “administrator”), the following questions relate only to non-financial decisions for the adult. The law recognises that most decisions for these matters can be made for adults with impaired decision-making capacity **on an informal basis by members of the adult’s existing support network.**

### 6. What personal decisions can the adult make for themselves?

*(for example, simple lifestyle decisions, such as diet and dress)*

Most health care decisions can be made by a spouse, family member or close friend without the need to make a guardianship application to the tribunal. The law calls these decision-makers statutory health attorneys. The Adult Guardian (from the Office of the Adult Guardian) can also make decisions as a statutory health attorney if there is no one else, without the need to formally be appointed by this tribunal.

There are some decisions that cannot be made by a statutory health attorney and require the appointment of a guardian and/or approval by the tribunal, for example: tissue donation, sterilisation, pregnancy termination, the use of some restrictive practices.

#### 6.1 Who do you believe would be the adult’s statutory health attorney/s?

A **guardian** is a person appointed by the tribunal to make decisions about personal matters, such as health care, accommodation, employment and support services. **The tribunal will only appoint a guardian if there is no other way to ensure the interests of the person concerned are protected and their needs met.**

#### 6.2 How are the adult’s personal decisions currently being made?

*(please tick and explain briefly below)*

by the adult

by the adult’s statutory health attorney/s named above

by an attorney designated under an enduring power of attorney (▶ *please attach a copy of the document and provide details about the attorney/s*)

by a guardian already appointed by the tribunal

informally *(provide details in section 3 – primary contacts)*

other *(please specify below)*

If decisions are being made for the adult and no one is challenging those decisions, there is no family conflict, a service provider is acting on those decisions, and the decisions are in the adult’s best interest, there will be no need for a formal guardianship order. **The informal arrangements can and should continue.**

**If there are adequate informal arrangements in place to make personal decisions and your application only relates to financial matters (go to question 7)**

<b>6.3 Describe the appropriateness of the arrangements</b> <i>(please tick and explain below)</i>	
<input type="checkbox"/>	it is appropriate and the adult does not require a guardian <i>(go to question 7)</i>
<input type="checkbox"/>	there is nobody in the adult's life
<input type="checkbox"/>	there is conflict between decision-makers
<input type="checkbox"/>	there is conflict between statutory health attorneys over a health care decision <i>☞If you believe this to be the case, the Adult Guardian may be able to mediate or act as statutory health attorney. Please contact the Adult Guardian on (07) 3234 0870 before proceeding with this application.</i>
<input type="checkbox"/>	the adult made an enduring power of attorney and did not have capacity to do so
<input type="checkbox"/>	the current attorney or guardian is acting inappropriately <i>☞If you believe this to be the case, you should first make a referral to the Adult Guardian on (07) 3234 0870 before proceeding with this application.</i>
<input type="checkbox"/>	abuse is occurring
<input type="checkbox"/>	there is a restrictive practice proposed that requires formal approval
<input type="checkbox"/>	other <i>(please specify)</i>
<b>6.4 What personal decisions currently have to be made for the adult?</b> <i>(you may tick more than one)</i>	
<input type="checkbox"/>	where they should live
<input type="checkbox"/>	with whom the adult has contact and/or visits
<input type="checkbox"/>	health care for the adult
<input type="checkbox"/>	provision of services for the adult
<input type="checkbox"/>	day-to-day issues, including, for example, the adult's diet and dress
<input type="checkbox"/>	whether the adult works and, if so, the kind and place of work and the employer
<input type="checkbox"/>	what education or training the adult undertakes
<input type="checkbox"/>	whether the adult applies for a licence or permit
<input type="checkbox"/>	legal matters not relating to the adult's financial or property matters <i>(please specify)</i>
<input type="checkbox"/>	other <i>(please specify)</i>

<b>6.5 Is the adult in immediate danger?</b> <i>(please provide details)</i>	
<input type="checkbox"/>	no
<input type="checkbox"/>	the adult's health care is being ignored
<input type="checkbox"/>	the adult is refusing necessary services
<input type="checkbox"/>	the adult is at risk of self harm
<input type="checkbox"/>	a matter not relating to the adult's finances or property is currently before the courts
<input type="checkbox"/>	the adult's safety is at risk through the actions of others
<input type="checkbox"/>	other <i>(please specify)</i>

## QUESTION 6.6 DOES NOT APPLY TO AGED CARE SERVICES

### 6.6 Use of restrictive practices

The use of restrictive practices in response to challenging behaviours can only occur when it can be demonstrated that other less restrictive practices are not sufficient to protect the person and others from harm. You can find more information about restrictive practices at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au) or by calling 1300 753 228.

**(a) Are any of the following restrictive practices being used or are intended to be used for the adult?** (see glossary at the end for definitions)

- |   |  |
|---|--|
| <input type="checkbox"/> seclusion                                      | ▶ please attach a multidisciplinary assessment and undertake to provide a positive behaviour support plan prior to the hearing.<br>If the adult does not receive services provided or funded by the Department of Communities (DoC), attach a behaviour management plan.     |
| <input type="checkbox"/> containment                                    |  |
| <input type="checkbox"/> chemical restraint                             | ▶ please attach a detailed description about the adult's behaviours that are likely to cause harm to the adult or others.<br>If the adult receives services provided or funded by the DoC, attach an assessment by at least one appropriately qualified person if available. |
| <input type="checkbox"/> mechanical restraint                           |  |
| <input type="checkbox"/> physical restraint                             |  |
| <input type="checkbox"/> restricting access to objects (please specify) | ▶ please attach a detailed description about the adult's behaviours that are likely to cause harm to the adult or others   |
| <input type="checkbox"/> none of the above                              | go to next page  |

**(b) Are you aware whether the adult is subject to:**

- |   |                                     |
|---|-------------------------------------|
| <input type="checkbox"/> a forensic order               | ▶ please attach a copy of the order |
| <input type="checkbox"/> an involuntary treatment order | ▶ please attach a copy of the order |

**(c) Is the service received by the adult:**

- |                                  |   |  |
|----------------------------------|---|--|
| <input type="checkbox"/> respite | <input type="checkbox"/> community access service | <input type="checkbox"/> accommodation/community support/other |
|----------------------------------|---|--|

**(d) Does the adult receive Department of Communities (DoC) or DoC-funded services?**

- No
- Yes ⇒ DoC or DoC-funded service provider to complete the certificate below:

**Note: If you have ticked "seclusion/containment" above and the adult receives DoC or DoC funded services, only DoC can apply**

I \_\_\_\_\_ being the authorised representative of \_\_\_\_\_ service certify that the said service will keep and implement a policy in relation to restrictive practices in accordance with s. 123I and s.244(1)(f) of the *Disability Services Act 2006*.

\_\_\_\_\_

Authorised representative


Date

\_\_\_\_\_

## 6.7 Who do you propose as guardian?

nobody (go to question 7)

the Adult Guardian (from the Office of the Adult Guardian) (go to question 7)

yourself and/or somebody else  **all proposed guardians must complete and sign separate photocopies of this page with a justice of the peace, commissioner for declarations or solicitor**

### How do you propose to be appointed? (see glossary at the end for a definition)

solely    jointly    jointly and severally    severally    successively

I

Given name/s

Surname/Family name

of

Address

agree to the proposed nomination as guardian for

Insert adult's full name

and do solemnly and sincerely declare as follows:

1. I am not under the age of 18 years.
2. I am not a paid carer or health provider for the adult who is the subject of this application.
3. There is no likely conflict between my duties as administrator for this adult and either:  
(a) my own interests or the interests of anyone in a close personal or business relationship with me, or  
(b) any other duties I may have as a guardian or administrator for any other person.
4. I do not have any criminal history, in Queensland or elsewhere.
5. I have not been, in Queensland or elsewhere, refused or removed from an appointment as a guardian, administrator, attorney or other person making a decision for someone else.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing the same to be true and by virtue of the *Oaths Act 1867*.

Proposed guardian's signature

Date of birth

 /  / 

Day

Month

Year

Place of birth

The justice of the peace, commissioner for declarations/solicitor completes the following:

SIGNED and DECLARED before me at \_\_\_\_\_  
Address

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Month Year

before me \_\_\_\_\_  
Signature of JP/C.Dec/solicitor

JP/C.Dec No.



## THE APPLICANT

### 8. Applicant's contact details *(if you are filling out this form you are the applicant)*

The tribunal will refer to you as "The applicant"

#### Applicant's name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

#### Organisation

*(if applicable)*

#### Full postal address

<input type="text"/>	<input type="text"/>
<input type="text"/>	<b>Postcode</b> <input type="text"/>

#### Street address *(if different)*

<input type="text"/>	<input type="text"/>
<input type="text"/>	<b>Postcode</b> <input type="text"/>

#### Telephone

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>( )</i>	<i>Daytime phone</i>	<i>Mobile phone</i>
		<i>( )</i>
		<i>After hours number (if different)</i>

#### Fax

#### Email

#### Your relationship to the adult?

#### How long have you known the adult?

### What you need to know

- you are expected to attend the hearing
- you are expected to bear your own costs in attending the hearing *(by telephone if necessary)*
- you are expected to make arrangements for the adult to attend the hearing if their attendance is appropriate
- you are expected to notify the tribunal if the adult moves, passes away or there is a change in the adult's capacity
- you may seek to withdraw this application in writing *(stating your reasons)* but the tribunal may proceed if it sees fit

## Warning

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* makes it an offence for a person to knowingly give the registry documents containing false or misleading information.

Maximum penalty for such an offence – \$10,000.

## SIGN AND DATE HERE

The information in this application is true to the best of my knowledge.

*Applicant/s sign here*

*Date*

## LODGEMENT DETAILS

<b>Deliver to:</b>	<b>Mail to:</b>	<b>Fax to:</b>	<b>Email to:</b>
Queensland Civil and Administrative Tribunal Floor 9, 259 Queen Street Brisbane Qld 4000 or at any local Magistrates Court	Queensland Civil and Administrative Tribunal GPO Box 1639 Brisbane Qld 4001	(07) 3221 9156	applications@qcat.qld.gov.au

## GLOSSARY OF TERMS

**active party:** any of the following: the adult, the applicant, attorney, any current or proposed guardian and/or administrator, the Adult Guardian, the Public Trustee and any person joined as a party by the tribunal.

**administrator:** someone appointed under the *Guardianship and Administration Act 2000* to manage the financial affairs of a person with impaired decision-making capacity.

**Adult Guardian:** an independent statutory officer who is appointed to protect the rights and interests of adults with impaired decision-making capacity.

**advance health directive:** a legal document, under the *Powers of Attorney Act 1998*, that states the adult's wishes or directions regarding the adult's future health care for various medical conditions. It comes into effect only if the adult is unable to make their own decisions.

**capacity:** an adult is deemed to have capacity if they are capable of understanding the nature and effect of the decisions they are making and can freely and voluntarily make those decisions and can communicate those decisions in some way.

**chemical restraint:** the use of medication for the primary purpose of controlling the adult's behaviour. However, the use of chemical restraint for the proper treatment of a diagnosed mental illness or physical condition is not chemical restraint. An intellectual or cognitive disability is not considered a physical condition.

**containment:** physically preventing the free exit of the adult from premises where the adult receives disability services, other than by secluding the adult. Note: it is not regarded as containment if the adult has a skills deficit (e.g. lack of road safety skills) and the adult's free exit from the premises is prevented by the locking of gates, doors or windows to prevent him or her from being subject to harm.

**enduring power of attorney:** a formal agreement giving someone else the power to make decisions on behalf of adult even when they lose capacity.

**guardian:** someone appointed under the *Guardianship and Administration Act 2000* to make some or all personal and lifestyle decisions for an adult with impaired decision-making capacity

**jointly:** all appointed substitute decision-makers must make decisions together.

**jointly and severally:** the co-appointees can make decisions separately.

**mechanical restraint:** the use, for the primary purpose of behavioural control, of a device to either restrict the free movement of an adult, or to prevent or reduce self injurious behaviour.

**order:** a tribunal order advises the decision of the tribunal members. Each order is tailored to meet the needs of the adult in the least restrictive way.

**restricting access to an object:** restricting the adult's access to an object to prevent the adult using it to cause harm to himself at a place where the adult receives disability services.

**restrictive practices:** containing or secluding an adult, using chemical, mechanical or physical restraint on an adult or restricting access of an adult with an intellectual or cognitive disability.

**physical restraint:** the use of any part of another person's body to restrict the free movement of the adult for the primary purpose of controlling the adult's behaviour.

**seclusion:** confine the adult alone, at any time of the day or night, in a room or area from which free exit is prevented.

**severally:** the appointees make decisions about different matters separate from other appointees.

**solely:** the administrator and/or guardian make decisions on their own.

**successively:** another co-appointee can make decisions when the first appointee is no longer able to do so.