

For office use only	
Case number:	
Date:	
Registry:	
Sent to:	

Application for miscellaneous matters - guardianship

Refer to the attached instructions prior to filling out this form.
Only complete the relevant parts.

Part A APPLICATION DETAILS

What order are you applying for?

- | | |
|--|--|
| advice, directions or recommendations | non-publication order |
| authorisation of a conflict transaction | adult evidence order |
| to be joined as an active party | closure order |
| leave to withdraw as administrator or guardian | recognition of an order made under another law |
| ratification of a decision by an informal decision-maker | an order concerning an enduring document |
| confidentiality order | leave to resign as attorney |

Note: Refer to the instructions at the back of this form for further information about the above matters.

Has a previous application about the person concerned ('the Adult') been made to QCAT?

Yes No Unknown

If yes, please provide the Tribunal's client number, if known:

Part B

PERSON THIS APPLICATION IS ABOUT (referred to as 'the Adult')
(full contact details must be supplied)

Name

Title *Given name/s* *Middle name/s* *Surname/Family name*

Gender Male Female

Date of birth / /
Date *Month* *Year*

Marital status

What is the Adult's cultural background

Is the Adult of Aboriginal or Torres Strait Islander origin?

No Yes, Torres Strait Islander
Yes, Aboriginal Yes, both Aboriginal and Torres Strait Islander

What is the Adult's current address?

Name of service provider (if applicable)

Full postal address _____

Suburb State/Territory Postcode

Email

Telephone
Mobile phone *Daytime phone*

Type of accommodation? (*hostel, own home, rental property*)

What is the Adult's usual address? (if different)

Name of service provider (if applicable)

Full postal address _____

Suburb State/Territory Postcode

Email

Telephone
Mobile phone *Daytime phone*

Type of accommodation? (*hostel, own home, rental property*)

1. Have you informed the Adult about this application?

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

NOTICE TO APPLICANTS
The Adult will be provided with a copy of this application and notified of a hearing for this proceeding pursuant to the *Guardianship and Administration Act 2000* and the *Queensland Civil and Administrative Tribunal Rules 2009*, unless the Tribunal determines otherwise.

2. Decision making capacity

What is the cause of the Adult's impaired capacity?
dementia (mental confusion due to a condition such as Alzheimer's disease, senility or some other degenerative disease)
psychiatric disability/mental illness (a diagnosed condition such as schizophrenia or bipolar affective disorder)
intellectual disability (a condition that has affected the person since birth or early childhood)
acquired brain injury or cognitive disability (as a result of accident, illness or other causes)
drug or alcohol related
other (any other condition that reduces the ability to make decisions about personal or financial matters, please specify below)

Part D PRIORITY

Is this application urgent? Do the matters detailed in this application pose an immediate problem for the Adult and their quality of life?

No

Yes - please explain below

Part E WHO IS THE ADMINISTRATOR FOR THE ADULT?

An administrator is a person appointed by a court or the Tribunal to make financial decisions for the Adult.

Tick one of the following:

there is no administrator

there is an application with the Tribunal to appoint an administrator

the following people have been appointed as administrator

Name

Title

Given name/s

Surname/Family name

Full postal address

Suburb

State/Territory

Postcode

Email

Telephone

Mobile phone

Daytime phone

Relationship to the Adult

Who appointed them?

Date of order of appointment?

In which State/country were they appointed?

What is their attitude to this application?

support

do not support

unsure

Part F

WHO IS THE GUARDIAN FOR THE ADULT?

A guardian is a person appointed by a court or the Tribunal to make personal decisions for the Adult.

Tick one of the following:

there is no guardian

there is an application with the Tribunal to appoint a guardian

the following people have been appointed as guardian

Name

Title

Given name/s

Surname/Family name

Full postal address _____

Suburb

State/Territory

Postcode

Email

Telephone

Mobile phone

Daytime phone

Relationship to the Adult

Who appointed them?

Date of order of appointment?

In which State/country were they appointed?

What is their attitude to this application?

support

do not support

unsure

Part G

WHO IS THE ATTORNEY FOR THE ADULT?

An attorney is a person appointed by the Adult under an enduring power of attorney.

Tick one of the following:

there is no attorney

there is an application with the Tribunal concerning the attorney/s

the following people are attorneys for the adult. *Attach a copy of the enduring power of attorney if it has not already been provided to the tribunal.*

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

Name

Title

Given name/s

Surname/Family name

Full postal address _____

Suburb

State/Territory

Postcode

Email

Telephone

Mobile phone

Daytime phone

Relationship to the Adult

Who did the Adult appoint?

Date of the enduring document?

In which State/country was the enduring document made?

What decisions are they appointed for?

health

personal

financial

What is their attitude to this application?

support

do not support

unsure

Part H

KNOWN RELATIVES AND FRIENDS

List all known relatives and friends who have a close and continuing relationship with the Adult. Photocopy or print this page as many times as needed for additional relatives and friends.

Name

Title

Given name/s

Surname/Family name

Full postal address _____

Suburb

State/Territory

Postcode

Email

Telephone

Mobile phone

Daytime phone

Relationship to the 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.

KNOWN RELATIVES AND FRIENDS

Name

Title

Given name/s

Surname/Family name

Full postal address _____

Suburb

State/Territory

Postcode

Email

Telephone

Mobile phone

Daytime phone

Relationship to the 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.

Part I

KNOWN SERVICE PROVIDERS

List all known service providers who provide services to the Adult. Photocopy or print this page as many times as needed for additional service providers.

Name

Title

Given name/s

Surname/Family name

Name of service provider

Full postal address _____

Suburb

State/Territory

Postcode

Email

Telephone

Mobile phone

Daytime phone

TICK ONE BOX:

I have spoken to this service provider 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 service provider 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.

KNOWN SERVICE PROVIDERS

Name

Title

Given name/s

Surname/Family name

Name of service provider

Full postal address _____

Suburb

State/Territory

Postcode

Email

Telephone

Mobile phone

Daytime phone

TICK ONE BOX:

I have spoken to this service provider 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 service provider 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.

Part J

ASSISTANCE AT THE TRIBUNAL HEARING

The Tribunal encourages the Adult to participate in the hearing.

How will the Adult participate in the hearing?

In person By telephone Other (please specify below)

Will anyone be accompanying the Adult to the hearing?

Yes - contact details must be provided below if different from the Applicant.

No

Name

Title *Given name/s* *Surname/Family name*

Full postal address _____

Suburb State/Territory Postcode

Email

Telephone
Mobile phone *Daytime phone*

Relationship to the Adult

Will the Adult require an interpreter at the Tribunal hearing?

Yes - please specify language or Auslan:

No

Does the Adult have any of the following needs?

wheelchair/mobility access speech impairment
hearing impairment/loss vision impairment/loss
other

If you have ticked any of these boxes, please provide details below:

NOTE: You only need to complete Parts K, L, M, N or O if you would like to apply for that particular order.

Part K **LIMITATION ORDERS**

This section relates to the following orders: confidentiality order, non-publication order, adult evidence order and closure order.

Confidentiality order

What documents, parts of documents or information do you consider should be withheld from another person?

From whom do you want the documents or information withheld? (please provide the name of the person/s)

How would disclosure of the documents or information to the relevant person/s cause serious harm or injustice to a person?

Non-publication order

What documents, parts of documents or information do you consider should not be published?

From whom should publication of the documents or information be prohibited?

How would publication of the documents or information cause serious harm or injustice to a person?

Adult evidence order

Why are you seeking an adult evidence order?

The application for an adult evidence order will be determined by the Tribunal at the hearing.

A closure order

Why are you seeking a closure order?

The application for a closure order will be determined by the Tribunal at the hearing

Part L

RECOGNITION OF AN ORDER MADE UNDER ANOTHER LAW

The recognition of a registrable order gives the administrator or guardian appointed in another State, the authority to make decisions for the Adult in Queensland.

Please include details of what decisions need to be made in Queensland:

Does the Adult intend to reside in Queensland permanently? Yes No

You must:

- attach report/s completed by a health professional such as a geriatrician, psychiatrist, psychologist or general practitioner giving details of the Adult's capacity for decision-making.
- attach the original order or a certified copy of the order that you want recognised in Queensland and any other relevant material which the originating court or tribunal relied upon in making its decision.
- attach copies of any relevant documents e.g. enduring power of attorney or advance health directive.

Part M

AN ORDER CONCERNING AN ENDURING DOCUMENT

An enduring document is an enduring power of attorney or an advance health directive.

What is your opinion about the existing enduring document?

- the enduring document is valid
- the principal who made the enduring document did not have capacity to do so
- the document has been incorrectly signed by the principal
- the document has been incorrectly witnessed
- the acceptance of the attorney's appointment has been incorrectly executed
- the document has been incorrectly executed in some other way (give details below)

What order would you like the Tribunal to make?

- note the existence of a valid enduring document
- declare an enduring power of attorney is invalid
- remove an attorney and appoint a new attorney to replace the removed attorney
- remove a power from an attorney and give the removed power to another attorney or to a new attorney
- change the terms of a power of attorney, enduring power of attorney or advance health directive
- revoke all or part of an enduring document
- vary the enduring document in some other way (give details below)

You must:

attach copies of all known current and former enduring documents (e.g. enduring power of attorney, advance health directive) or provide details of how the Tribunal can obtain them.

Part N

LEAVE TO WITHDRAW AS AN ADMINISTRATOR OR A GUARDIAN

What are you applying for?

Leave to withdraw as administrator

Leave to withdraw as guardian

You must:

attach a report/s completed by medical, psychiatric or other health professional about the Adult's impaired decision-making capacity.

Why are you seeking leave to withdraw? (you may tick more than one box)

the Adult has regained capacity (*then you must complete a different form and apply for a declaration of capacity*)

informal arrangements are working satisfactorily (*then you must provide a written statement about the informal arrangements*)

there is conflict between decision-makers (*explain your reason in Part C*)

for personal/health reasons I am unable to continue (*explain your reason in Part C*)

there is already an administration/guardianship application lodged

an administration/guardianship application will be submitted by (*please give details below*)

Name

Title Given name/s

Surname/Family name

Telephone

Mobile phone

Daytime phone

Part O

LEAVE TO RESIGN AS ATTORNEY

Why are you seeking leave to resign as attorney?

there is conflict between decision-makers (*explain your reason in Part C*)

for personal/health reasons I am unable to continue (*explain your reason in Part C*)

there is already an administration/guardianship application lodged

an administration/guardianship application will be submitted by (*please give details below*)

Name

Title Given name/s

Surname/Family name

Telephone

Mobile phone

Daytime phone

You must:

attach a copy of the enduring power of attorney

attach a report/s completed by medical, psychiatric or other health professionals about the Adult's impaired decision-making capacity

attach a written statement of the Adult's current financial position

Part P

APPLICANT

Are you making this application about yourself as the Adult?

Yes - go to the Checklist

No - please provide details below

Name

Title

Given name/s

Surname/Family name

Full postal address _____

Suburb

State/Territory

Postcode

Email

Telephone

Mobile phone

Daytime phone

What is your relationship to 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 (including any costs of telephone calls).
- you are expected to make arrangements for the Adult to appropriately participate in the hearing or inform the Tribunal why you consider the Adult cannot participate in the hearing.
- you are expected to notify the Tribunal if the Adult moves, passes away or there is a change in the Adult's decision-making capacity.
- you may seek to withdraw this application in writing (stating your reasons) but the Tribunal may not approve the withdrawal.

CHECKLIST

I have completed all questions on the application according to the instructions.

I have attached all relevant documents.

I am ready to proceed with this application.

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 – 100 penalty units.

Sign and date here

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

Applicant/s sign here

Date

Print your name/s here

Lodgement Details

Deliver to:	Mail to:	Email to:
Queensland Civil and Administrative Tribunal Floor 11, 259 Queen Street Brisbane Qld 4000 OR at any local Magistrates Court	Queensland Civil and Administrative Tribunal GPO Box 1639 Brisbane Qld 4001	enquiries@qcat.qld.gov.au

INSTRUCTIONS FOR COMPLETING FORM 12

Application for miscellaneous matters

This form is to be completed relating to an application for miscellaneous matters – *Guardianship and Administration Act 2000*.

HOW TO COMPLETE THIS FORM

Part A – APPLICATION DETAILS

You must indicate what order you are applying for and if a previous application has been made to QCAT.

Advice, directions or recommendations

At the hearing the Tribunal can give directions to guardians, administrators or attorneys on various issues.

Please provide details in **Part C** of the form.

Authorisation of a conflict transaction

A conflict transaction is a transaction where there may be conflict or which results in conflict between the duty of the administrator/attorney towards the Adult and the interests of another duty of the administrator/attorney. A typical conflict transaction would be the purchase by the administrator of the Adult's car. An administrator may only enter into a conflict transaction if the Tribunal has authorised the transaction.

The Tribunal may authorise a conflict transaction of a specific type or conflict transactions generally.

Please provide details in **Part C** of the form.

To be joined as an active party

The Adult, the Applicant, any current guardian, administrator or attorney for the Adult and any person proposed as guardian, administrator or attorney will be an active party to a proceeding. Active parties may present their case at a hearing, inspect documents, seek leave to be represented and be given a copy of the Tribunal's decision and any written reasons for them. The Tribunal may make a decision that a person be joined as a party to the proceeding.

Please provide details in **Part C** of the form.

Leave to withdraw as administrator or guardian

If an administrator/guardian wishes to withdraw from their role they must lodge this application to QCAT. The Tribunal may give the administrator/guardian permission to withdraw. Only when this permission is given does the appointment and the responsibilities of an administrator/guardian finish.

Please provide details in **Part C** of the form.

You must:

attach report/s completed by a health professional such as a geriatrician, psychiatrist, psychologist or general practitioner giving details of the Adult's capacity for decision-making.

Ratification of a decision made by an informal decision-maker

The Tribunal may ratify a decision or a proposed decision of an informal decision maker for an Adult except when it is a special personal matter, a health matter or a special health matter.

Please provide details in **Part C** of the form.

Confidentiality order

A confidentiality order allows the Tribunal to withhold from an active party or other person a document, part of a document or other information that is before the Tribunal.

Non-publication order

A non-publication order allows the Tribunal to prohibit publication of information about a Tribunal proceeding. The Tribunal may make a non-publication order only if it is satisfied it is necessary to avoid serious harm or injustice to a person.

Adult evidence order

An adult evidence order allows the Tribunal to obtain relevant information from the Adult without anyone else being present in the hearing room. The Tribunal may make an adult evidence order only if the Tribunal is satisfied it is necessary to avoid serious harm or injustice to a person or to obtain relevant information the Tribunal would not otherwise receive. If the relevant information is health information about a person 'serious harm to a person' includes 'significant health detriment to the person'.

Closure order

A closure order allows the Tribunal to close a hearing or part of a hearing to all or some members of the public or a particular person, including an active party. The Tribunal may make a closure order only if the Tribunal is satisfied it is necessary to avoid serious harm or injustice to a person. If the hearing or part of the hearing concerns health information about a person 'serious harm to a person' includes 'significant health detriment to the person'.

Recognition of an order made under another law

If you need to have an order that was made in another State or under a foreign jurisdiction recognised, so it is effective in Queensland, you must lodge this application to QCAT. The Tribunal may register the order so long as it is similar to an order that may be made under Queensland's *Guardianship and Administration Act 2000* or the *Powers of Attorney Act 1998* provided the order was made under the legislation listed in schedule 1 of the *Guardianship and Administration Regulation 2012*. If you are unsure about this please contact the Tribunal registry.

You must:

attach report/s completed by a health professional such as a geriatrician, psychiatrist, psychologist or general practitioner giving details of the Adult's capacity for decision-making.

attach the original order or a certified copy of the order that you want recognised in Queensland and any other relevant material which the originating court or tribunal relied upon in making its decision.

attach copies of any relevant forms e.g. enduring power of attorney or advance health directive.

An order concerning the validity of an enduring document

An enduring document is an enduring power of attorney or an advance health directive.

You must:

attach copies of all known current and former enduring documents (e.g. enduring power of attorney or advance health directive) or provide details of where the Tribunal can obtain them.

Leave to resign as attorney

If an attorney wishes to withdraw from their role, in circumstances where the principal has impaired capacity, the attorney must submit an application to QCAT. The Tribunal may give the attorney permission to resign. Only when this permission is given does the appointment and the responsibilities of an attorney finish.

You must:

attach a copy of the enduring power of attorney.

attach report/s completed by a health professional such as a geriatrician, psychiatrist, psychologist or general practitioner giving details of the Adult's capacity for decision-making.

attach a statement of the Adult's current financial position.

Part B – PERSON THIS APPLICATION IS ABOUT

The Tribunal will refer to the person this application is about as 'the Adult'.

The Adult has capacity for decision-making 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.

You must submit with this application, a current [Health Professional Report](#), which is available at qcat.qld.gov.au or by calling the QCAT registry on 1300 753 228. Alternatively, a comprehensive written report about the Adult's capacity for decision-making may be accepted. Any report must be prepared by a health professional such as a geriatrician, psychiatrist, psychologist or general practitioner. In some circumstances, the health professional may send the report directly to the QCAT registry after you have submitted your application.

NOTE: The Tribunal may reject your application without a current report by a health professional.

Part C – WHY ARE YOU SEEKING THIS ORDER?

You must clearly explain your reasons for seeking the order.

Part D – PRIORITY

You must explain why this application is urgent.

Part E – WHO IS THE ADMINISTRATOR FOR THE ADULT?

An administrator is someone appointed under the *Guardianship and Administration Act 2000* to make decisions about the financial affairs of a person 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.

Part F – WHO IS THE GUARDIAN FOR THE ADULT?

A guardian is 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. 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 such a decision maker a statutory health attorney.

The Public Guardian can also make some health care decisions as a statutory health attorney, if there is no one else close to the Adult who is readily available and culturally appropriate.

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 e.g. tissue donation, sterilisation or termination of pregnancy.

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.

Part G – WHO IS THE ATTORNEY FOR THE ADULT?

An Attorney is a person appointed by the Adult under an enduring power of attorney.

An advance health directive is 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.

An enduring power of attorney is a formal agreement giving someone else the power to make decisions on behalf of the Adult even when they lose capacity.

If the Adult has an enduring power of attorney for personal/financial matters or has made an advance health directive you must attach copies of the relevant forms (e.g. enduring power of attorney or advance health directive) and provide the contact details about the attorney, administrator or guardian.

Part H – KNOWN RELATIVES AND FRIENDS

List all known relatives and friends who have a close and continuing relationship with the Adult.

Part I – KNOWN SERVICE PROVIDERS

List all known service providers who provide services to the Adult.

Part J – ASSISTANCE AT THE TRIBUNAL HEARING

The Tribunal encourages the Adult to participate in the hearing. The Adult may participate in the hearing by attending in person, by telephone or by some other appropriate arrangement. The applicant is responsible for making appropriate arrangements for the Adult to participate in the hearing. If the Adult cannot participate in the hearing, the applicant must, prior to the scheduled hearing date, inform the QCAT registry, of the reason why the Adult is unable to participate. Failure to do so may result in the hearing being vacated or adjourned.

Part K – LIMITATION ORDERS

You only need to complete this section if you are applying for a limitation order, which includes a confidentiality order, non-publication order, adult evidence order or a closure order. If a confidentiality order or non-publication order is made before the hearing, the order is automatically vacated at the start of the hearing. If the applicant for the confidentiality order or non-publication order wishes to apply

for a further confidentiality order or non-publication order over the relevant document or information they will need to advise the tribunal at the commencement of the hearing.

Part L – RECOGNITION OF AN ORDER MADE UNDER ANOTHER LAW

You only need to complete this section if you are applying for recognition of an order made under another law.

Part M – AN ORDER CONCERNING THE VALIDITY OF AN ENDURING DOCUMENT

You only need to complete this section if you are applying for an order concerning the validity of an enduring document.

Part N – LEAVE TO WITHDRAW AS AN ADMINISTRATOR OR GUARDIAN

You only need to complete this section if you are applying for leave to withdraw as administrator or guardian.

Part O – LEAVE TO RESIGN AS ATTORNEY

You only need to complete this section if you are applying for leave to resign as attorney.

Part P – APPLICANT

The applicant is the person completing the application. You must provide your contact details and your relationship with the Adult.

Confidentiality

The principles of natural justice and procedural fairness require that the active parties to a proceeding be given the opportunity to respond to, and make submissions about, any document or other information before the Tribunal that the Tribunal considers to be credible, relevant and significant to an issue in the proceeding. Active parties are entitled to inspect such documents and information before the Tribunal subject to the terms of any confidentiality order made by the Tribunal.

A confidentiality order may only be made if the Tribunal is satisfied that such an order is necessary to avoid serious harm or injustice to a person.

Each of the following persons is an active party:

- a) the Adult;
- b) if the Adult is not the Applicant – the Applicant;
- c) if the proceeding is for the appointment or the reappointment of a guardian, administrator or attorney for the Adult – the person proposed for appointment or reappointment;
- d) any current guardian, administrator or attorney for the Adult;
- e) the Public Guardian;
- f) the Public Trustee;
- g) a person joined as a party to the proceeding by the Tribunal.

In proceedings about restrictive practices, the active parties might also include:

- the chief executive (disability services);
- in particular circumstances, the Chief Psychiatrist;
- in particular circumstances, the director of forensic disability
- a service provider providing disability services to the Adult.

Checklist

Go through the checklist to ensure you have complied with all of the requirements for the application you are making including the completion of all necessary parts of the application form and the provision of copies of all other relevant documents.

Can I withdraw the application?

You can apply to the Tribunal for leave to withdraw the application by making an application under [Form 58 – Application for leave to withdraw an application or referral / Notice of withdrawal of application or referral](#).

Information about applying to the Tribunal for leave to withdraw your application is available at qcat.qld.gov.au or by calling the QCAT registry on 1300 753 228.

NOTE: The Tribunal may not approve the withdrawal.

Protecting your privacy

We collect your contact details to ensure QCAT proceedings comply with the *Queensland Civil and Administrative Tribunal Act 2009*. We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.