

# Administration for adults

Administration for adults matters were previously decided by the **Guardianship and Administration Tribunal**.

An administrator is a person appointed by QCAT to assist adults with impaired decision making capacity to make certain financial and legal decisions. This ensures that the adult's needs are met and their financial interests are protected.

QCAT regularly conducts information sessions for people wanting to find out more about administration for adults and for appointed administrators to assist them in their role.

Contact the QCAT registry or visit the QCAT website for more information.

**Administrators are not allowed** to make decisions about personal or health care matters, unless they have also been appointed as the adult's guardian or as attorney for personal matters under an enduring power of attorney.

See the **QCAT Guardianship for adults fact sheet** for more information.

## Impaired decision making capacity explained

There are three elements to making a decision including:

- understanding the nature and effect of the decision
- freely and voluntarily making a decision, and
- communicating the decision in some way.

If an adult is unable to carry out any part of this process for decision making, the adult is said to have impaired decision making capacity.

## QCAT decisions about adults

QCAT can decide a range of matters about adults including:

- making a declaration about an adult's decision making capacity for some or all matters
- that the informal decision making arrangements in place are adequate to protect the adult
- appointing an administrator to make some or all financial decisions
- making a temporary decision to deal with an urgent situation
- making a declaration about the execution and appointment of an enduring power of attorney.

## When appointing an administrator may not be necessary

While an adult still has capacity they can appoint someone to make decisions on their behalf by making an enduring power of attorney.

An enduring power of attorney remains in effect until the death of the adult. It does not lapse when the adult loses decision making capacity. Adults can cancel their enduring power of attorney whilst they still have capacity.

For financial matters, an enduring power of attorney begins whenever the adult wants. An adult can choose to give an attorney immediate power or can set a time when the power starts.

If an adult loses capacity to make decisions before the enduring power of attorney takes effect, then the enduring power of attorney begins as soon as the attorney is notified of the adult's condition.

QCAT cannot give advice about completing an enduring power of attorney but can make a declaration about whether an adult has capacity to make an enduring power of attorney. QCAT may also make a declaration about the validity of an appointment or the administrator's actions.

While an adult has capacity they can also appoint someone to make financial decisions on their behalf. For example, the adult may be overseas and may need bills paid.

**This fact sheet provides general information and is not legal advice.**

In this situation a general power of attorney may be made. A general power of attorney ceases when an adult loses capacity.

For information about enduring powers of attorney or general powers of attorney contact the Department of Justice and Attorney-General, the Office of the Adult Guardian, your local office of The Public Trustee or a lawyer.

### **Who can be appointed as administrator**

Family members, close friends, professionals or anyone who has a genuine and continuing interest in the welfare of an adult with impaired decision making capacity can apply for an administrator to be appointed. Adults with impaired decision making capacity can also apply on their own behalf.

Appointed administrators must be over 18 years of age and not a paid carer for the adult. A paid carer performs services for the adult's care and receives remuneration other than a carer payment or benefit from the Commonwealth or State Government.

### **Appropriateness and competency to act as administrator**

Before appointing an administrator, QCAT considers their appropriateness and competency to act in this role.

The proposed administrator must be willing to:

- act honestly and with reasonable diligence
- act according to the decisions made by QCAT
- avoid any transactions that could be in conflict with the interests of the adult unless authorised by QCAT.

QCAT will also consider whether they:

- have a criminal history
- have previously been refused or removed from appointment as a guardian, administrator, attorney or other person making a decision for someone else
- have been declared bankrupt
- have been involved in a corporation, business or entity that is under administration.

### **Length and status of appointment**

QCAT appoints administrators generally for a five year period on the following basis:

- a single administrator to make decisions either on all financial matters or on a specified financial matter only, such as selling the adult's family home

- more than one administrator, giving each administrator specific decision making authority. Each administrator then has the authority to make decisions on a different financial matter.
- two or more administrators to make financial decisions together or to make financial decisions separately on behalf of the adult
- on a successive basis, where the appointment of the same administrator continues for another five years.

### **When the Public Trustee or a private administrator can be appointed**

Sometimes there is no one close to the adult who is willing to accept the responsibility of being their administrator. Or the complexity of the decisions to be made, require the appointment of an administrator with the necessary skills and experience in these matters.

There may also be a dispute about who should act as an administrator or concern about the suitability or competence of a proposed administrator.

In these situations, QCAT may appoint the Public Trustee or a private trustee company to act on the adult's behalf.

### **Decisions administrators make**

Generally, administrators are given the authority to make decisions on behalf of the adult such as:

- buying or selling property
- maintaining property
- paying bills
- making business decisions
- managing investments.

If the adult can communicate their views and wishes administrators should take these into account when making any decisions.

Administrators can only be appointed for adults over the age of 18 years. However advance appointments for children aged 17-and-a-half or older, which take effect when they turn 18 years of age, can also be made.

### **Administrator duties**

Administrators must:

- keep detailed records of dealings and transactions made on behalf of the adult
- provide QCAT with a financial management plan
- submit accounts when requested

- abide by the law in relation to avoiding conflict transactions, payment of expenses, keeping records, audits, paying tax, recording of receipts and payments, keeping property separate, investments, gifts and maintaining the adult's dependents.

Helpful information to assist proposed and appointed administrators in completing a financial management plan and understanding their legal duties can be found on the QCAT website or will be provided by QCAT on your appointment.

### **Administrator powers**

Administrators have a right to access all the information that the adult would have been entitled to when making a decision about a matter.

Administrators are provided with copies of the QCAT decision appointing them as administrator which they can show as evidence of their role. This makes sure that organisations and companies provide the information necessary for the administrator to make a sound decision.

Administrators are entitled to reimbursement from the adult for any reasonable expenses incurred.

Generally, they may not be paid for services they perform for the adult. For example, if the administrator drives the adult to the shops, they are entitled to reimbursement for motor vehicle costs such as petrol but not for the time it took to drive them there.

### **Reviewing an appointed administrator**

During the five year appointment period the adult or an interested party may apply for a review of the appointment of the administrator. QCAT will also conduct random or periodic reviews of these appointments on its own initiative.

The review will consider the performance of the administrator and any new or relevant information about the adult's circumstances that may affect the appointment.

### **Removing an appointed administrator**

Being an administrator for an adult is a very serious role and administrators can be removed when:

- the adult's needs have not been met according to the decision made by QCAT

- the administrator has neglected their duties or abused their decision making authority, either generally or for a specific matter
- the administrator has otherwise contravened the *Guardianship and Administration Act 2000*
- the need for an administrator no longer exists
- the administrator is no longer competent to act as a decision maker
- another person is more appropriate to be the adult's administrator
- they no longer wish to act.

In some situations the appointment of an administrator may automatically end for example, if the administrator or the adult dies or the administrator becomes a paid carer for the adult.

### **Confidentiality in administration matters**

Hearings about the appointment of administrators are generally open to the public and information about proceedings can be published.

However information that identifies or is likely to identify the adult cannot be published unless QCAT approves this. QCAT will only do this in situations where it is satisfied that the publication of the adult's identity is in the public interest or in the interests of the adult.

In some limited circumstances QCAT can make a limitation order, that:

- restricts access by another party to a relevant document or information
- prevents publication of proceedings, or
- limits who may attend a hearing.

QCAT must be satisfied that the limitation order is necessary to:

- avoid harm or injustice to any of the parties, or
- obtain information that might not otherwise have been given in some specific cases.

Limitation orders are only approved in exceptional cases and any person involved in the application for the appointment of an administrator can apply for one. QCAT may also make a limitation order on its own initiative.

## **Making an application to appoint an administrator for an adult**

Complete and lodge:

- Form 10 Application for administration/guardianship appointment or review - *Guardianship and Administration Act*
- Report by medical and related health professionals
- Financial management plan – proposed administrator

Once your application and forms have been received QCAT will review the information you provided. You will then be contacted by QCAT about the next steps that will happen in relation to your case.

Application forms related to guardianship matters are available from the QCAT registry, QCAT website or local Magistrates Court (excluding Brisbane Magistrates Court).

### **Contact information**

#### **QCAT**

Address: Level 9, Bank of Queensland Centre,  
259 Queen Street, Bank of Brisbane, 4000  
Post: GPO Box 1639, Brisbane Qld 4001  
Phone: 1300 753 228  
Email: [enquiries@qcat.qld.gov.au](mailto:enquiries@qcat.qld.gov.au)  
Website: [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)

Your local Magistrates Court is able to supply and accept QCAT application forms.

Contact details for **local Magistrates Courts** are available in the phone book or at [www.courts.qld.gov.au](http://www.courts.qld.gov.au).

#### **Department of Justice and Attorney-General**

Phone: 07 3239 3520  
Website: [www.justice.qld.gov.au](http://www.justice.qld.gov.au)

#### **Office of the Adult Guardian**

Phone: 07 3234 0870 or 1300 653 187 (local calls outside of Brisbane)  
Website: [www.justice.qld.gov.au](http://www.justice.qld.gov.au)

A range of useful publications to assist proposed and appointed administrators are available from **The Public Trustee**.

Phone: 1300 651 591  
Website: [www.pt.qld.gov.au](http://www.pt.qld.gov.au)