

# Guardianship for adults

A guardian is a person QCAT appoints to help an adult with impaired decision making capacity. The guardian ensures the adult's needs are met and interests are protected by making certain personal and health care decisions on their behalf.

## 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 cannot carry out any part of this process for decision making, they are said to have impaired decision making capacity.

## Decisions guardians make

Generally, guardians are given the authority to make decisions such as:

- where the adult lives
- what support services they receive
- with whom they have contact or visits
- general health care matters
- restrictive practices
- other day-to-day issues.

If the adult can communicate their views and wishes, guardians should take these into account.

Guardians must ensure whenever they are called to make a decision about health care that the health care is:

- necessary and appropriate to maintain or promote the adult's health or wellbeing
- in the adult's best interests and, to greatest extent possible, reflects the adult's views.

## Who can be appointed as guardian

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 a guardian to be appointed. Adults with impaired decision making capacity can also apply on their own behalf.

Guardians can only be appointed for adults over the age of 18 years. Advance appointments can be made for children aged 17½ years or older, which take effect when they turn 18.

Appointees must be over 18 years of age and not a paid carer for the adult.

QCAT may appoint a guardian for a period of up to five years. Appointments are reviewed before the end of the appointment or earlier if QCAT considers it necessary.

*This fact sheet provides general information and should not be considered legal advice. If you are unsure about your legal rights, you should seek legal advice. Your individual circumstances should determine any actions taken to resolve your dispute.*

March 2017

## When the Public Guardian can be appointed

QCAT may appoint the [Public Guardian](#), an independent statutory authority, to act on the adult's behalf if there is no one close to the adult willing to act as guardian or there is a dispute about who should act.

## Applying for a guardian to be appointed

Please complete and lodge:

- [Form 10 Application for administration/guardianship appointment or review - Guardianship and Administration Act](#)
- [Report by medical and related health professionals](#).

Once your application has been reviewed, QCAT will contact you about next steps.

Application forms are available from [qcat.qld.gov.au](http://qcat.qld.gov.au), the QCAT registry or local Magistrates Court (excluding Brisbane).

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### Guardians are not allowed to make decisions about:

- Financial or property matters unless they have also been appointed as the adult's administrator or as attorney for financial matters under an enduring power of attorney or a general power of attorney. See QCAT's [administration for adults](#) fact sheet.
  - Special health care matters including sterilisation or tissue donation. Only QCAT or the [Supreme Court](#) can give consent for these procedures.
  - Special personal matters including making or revoking a will or consenting to marriage or relinquishing a child for adoption
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### Contact information

#### QCAT - Brisbane

Phone: 1300 753 228

Email: [enquiries@qcat.qld.gov.au](mailto:enquiries@qcat.qld.gov.au)

#### Outside of Brisbane

Your local Magistrates Court (excluding Brisbane Magistrates Court) can supply and accept all QCAT application forms. To find your nearest Magistrates Court, go to [courts.qld.gov.au](http://courts.qld.gov.au) or look up Queensland Magistrates Court in the phone book.

#### Other organisations

Office of the Public Guardian

1300 753 624 [publicguardian.qld.gov.au](http://publicguardian.qld.gov.au)

#### The Public Trustee

A range of useful publications to assist proposed and appointed administrators.

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

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