

Frequently Asked Questions – completing a Health Professional Report

(for a guardianship proceeding*)

**Please also see:*

- *Frequently Asked Questions (about QCAT's guardianship jurisdiction)*

What is a Health Professional Report?

A template document titled 'Health Professional Report', together with instructions for completing the report, can be found at [QCAT's website](#)

The instructions for completing the Health Professional Report include information about capacity and impaired decision-making capacity.

There are published guidelines for assessing decision-making capacity to assist persons required to make assessments about the capacity of adults to make decisions about matters to make the assessments.

Section 250(2) of the *Guardianship and Administration Act 2009* (Qld) provides that the guidelines are to include-

- (a) principles to be applied in making assessments about the capacity of adults to make decisions about matters; and
- (b) information and advice that will give practicable guidance for making the assessments.

The capacity Guidelines can be accessed at:

<https://www.publications.qld.gov.au/dataset/capacity-assessment-guidelines>

Why is a Health Professional Report necessary?

The *Queensland Civil and Administrative Tribunal Rules 2009* (Qld) provide additional requirements for proceedings under the *Guardianship and Administration Act 2009* (Qld).

Rule 110 of the *Queensland Civil and Administrative Tribunal Rules 2009* (Qld) requires that an application for appointment of a guardian or administrator to QCAT include relevant information including, for example and amongst other things, by attaching a report, information about the adult relevant to the application that is provided by a health provider.

The requirement to attach a report, information about the adult relevant to the application that is provided by a health provider, is necessary when filing an application for a declaration about capacity (Rule 111) and application for consent to special health care (Rule 112).

Who is a health provider?

Schedule 4 of the *Guardianship and Administration Act 2009* (Qld) provides:

Health provider means a person who provides health care, or special health care, in the practice of a profession or the ordinary course of business.

Example-

dentist

For the meaning of ‘health care’ and ‘special health care’, also see Schedule 4.

Is a health provider required to provide information to QCAT?

In a relevant matter, the Tribunal may request a person who has custody or control of information or material the Tribunal considers is necessary to make an informed decision about the matter must give the information or material to the Tribunal, unless the person has a reasonable excuse (see s 130 of the *Guardianship and Administration Act 2009* (Qld)).

Section 76 of the *Guardianship and Administration Act 2009* (Qld) applies for health matters and special health matters in QCAT and contains relevant provisions for health providers to give certain information to a guardian or attorney who has power for a health matter for an adult and the Tribunal.

There are also requirements for a health provider to give relevant information to the Tribunal under s 80P of the *Guardianship and Administration Act 2009* (Qld) that applies for matters involving sterilisation of a child.

Is the adult’s health information protected?

Section 11B of the *Guardianship and Administration Act 2009* (Qld) may apply, in particular, General Principle 6 that provides:

- (1) An adult’s privacy must be taken into account and respected.
- (2) An adult’s personal information, including health information must be protected on the same basis as other people’s personal information is protected.

See also *Frequently Asked Questions (about QCAT’s guardianship jurisdiction)* that includes information about publication about a proceeding that may disclose the adult’s identity and the General Principles.

Additional requirements for matters involving sterilisation

For matters involving special health care including, for example, sterilisation, Practice Direction No. 8 of 2010 provides that the Protocol for Special Medical Procedures (Sterilisation) dated 6 May 2009 (‘the Protocol’) made by the *Australian Guardianship Council* is adopted by the Tribunal for matters involving sterilisation.

The relevant Protocol provides information about matters involving sterilisation and, amongst other things, a requirement for the applicant to provide to the Tribunal reports by medical, psychological or other experts (including the person’s treating doctor and a specialist in the relevant area of medicine who is not involved in the person’s care, and who has no interest in the outcome of the hearing), concerning a number of matters such as, for example, the person’s capacity.

The Protocol that applies for matters involving sterilisation can be accessed at:
[QCAT's website](#)