

How we resolve disputes

The QCAT dispute resolution process is based on active case management to achieve our vision to *actively resolve disputes in a way that is fair, just, accessible, quick and inexpensive.*

As outlined in Figure 2, the progress of an application in the tribunal depends on the type of matter.

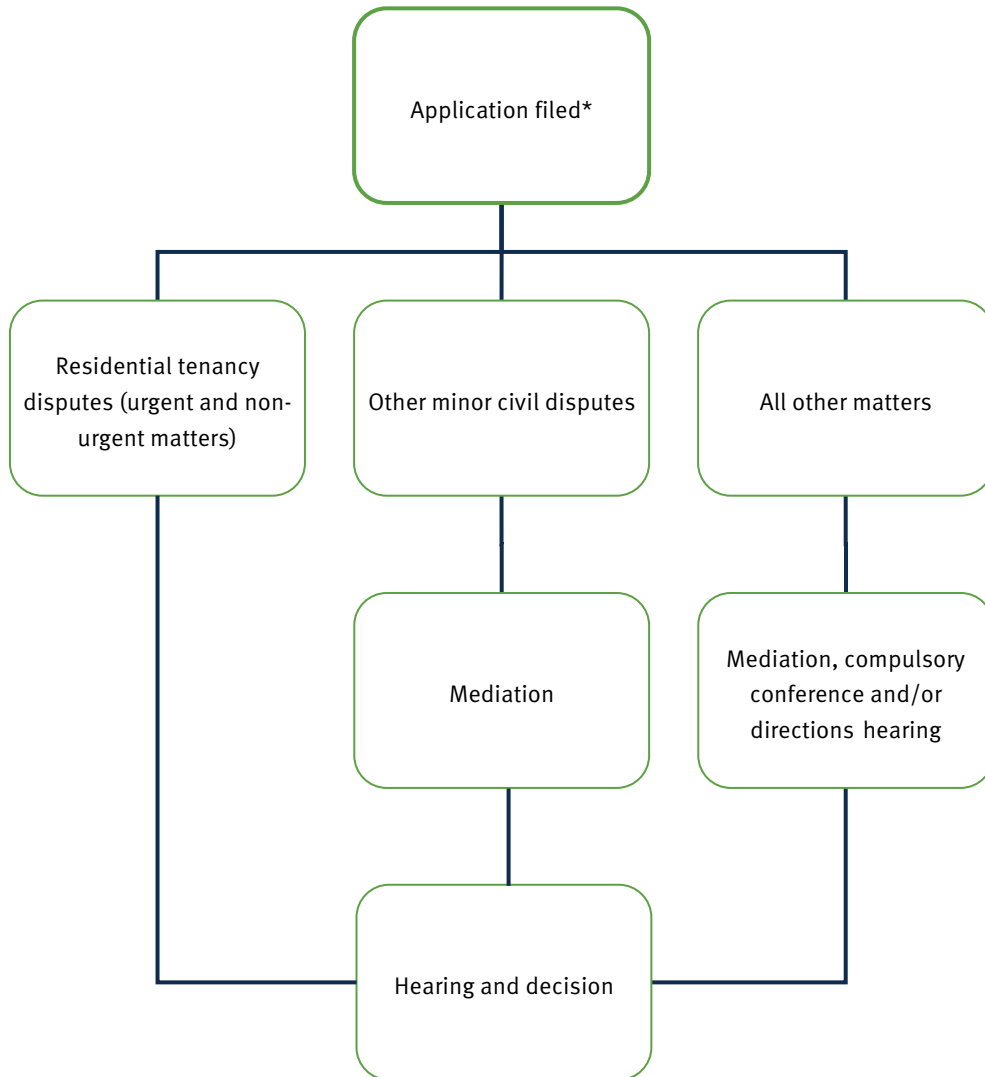


Figure 2: The QCAT process from application to resolution

** For urgent residential tenancy matters (as defined under the Residential Tenancies and Rooming Accommodation Act 2008), clients may apply directly to the tribunal. For all other residential tenancy matters, clients must contact the Residential Tenancies Authority and participate in their dispute resolution process before an application to the tribunal will be accepted.*

Application to QCAT

Applications may be initiated by anyone, including community members, disciplinary boards and government departments. The tribunal may refer applications to the Queensland Ombudsman or transfer them to the courts as appropriate.

Generally, applicants are expected to represent themselves before QCAT, and to be responsible for fees associated with applications. To ensure accessibility, fee waivers are considered in exceptional circumstances.

Mediation

Mediation aims to resolve the dispute without proceeding to a hearing. Generally, the mediation is held in private and discussions cannot be used or referred to at any subsequent hearing unless the parties agree.

If the parties reach an agreement, the mediator may record the terms of the agreement and QCAT may make the orders necessary to give effect to the agreement as required.

If no agreement is reached, an outline of remaining issues in dispute is provided for use by the tribunal as the matter proceeds to a compulsory conference, directions hearing or hearing.

Compulsory conference

Compulsory conferences are used to clarify the issues in dispute and to try to resolve a dispute without proceeding to a hearing. During a compulsory conference, the member can make orders about how the case will proceed so it can be resolved.

Compulsory conferences may be conducted by a member, adjudicator or the Principal Registrar. Generally, compulsory conferences are private, and information and evidence presented cannot be used or referred to at any subsequent the hearing.

If the parties reach an agreement the tribunal will record the terms of the agreement and make the orders necessary to give effect to the agreement as required.

Directions hearing

The aim of a directions hearing is to establish how the case will proceed and make appropriate orders. For example, that one party must provide the other party with certain documents or information.

Directions hearings may be conducted by a member, adjudicator or the Principal Registrar. All parties will receive an order or letter confirming the directions, or actions they need to do, as set down by the tribunal.

Final hearing and decision

The aim of the final hearing is to make a final decision about the case. At the hearing, QCAT members or adjudicators (up to three) will receive and consider evidence from both parties and hear submissions about the evidence and the law.

A decision may be provided at the end of the hearing, however, if the tribunal needs more time to consider the matter or obtain more information, it may reserve its decision and all parties will receive QCAT's decision at a later date – the length of time will depend on the complexity of the matter.

Enforcement

Decisions made by QCAT are final and are enforceable.

Accessibility of proceedings

To ensure accessibility, QCAT considers applications to attend hearings via telephone or videoconferencing.

QCAT in action: Ensuring accessibility and equity

The Anti-Discrimination Commission Queensland referred to QCAT a complaint from MD and AS that they had received inferior service from medical staff at a hospital due to their race and religious background and that they were not provided with an interpreter to explain the medical procedures.

QCAT used an interpreter service to ensure that MD and AS understood all of the tribunal's correspondence and the initial directions hearing and subsequent compulsory conference. Both the hospital and MD and AS were directed to lodge submissions in support of their claims. QCAT referred MD and AS to the Self Representation Service of the Queensland Public Interest Law Clearing House (QPILCH) who assisted them to draft their submissions. The complaint was later resolved at a compulsory conference.

The flexible and proactive approach adopted by QCAT echoes the principles of the QCAT legislation in dealing with matters in a way that is accessible, fair, just, economical, informal and quick.

Reopenings and renewals

In some circumstances, a party can apply to reopen or renew a matter after the decision has been made.

A reopening application can be made when a party had a reasonable excuse for not attending a hearing, or there is significant new evidence and a party would suffer a substantial injustice if the matter was not reopened.

A renewal application can be made when it is not possible to comply with the tribunal's decision, or there are problems in understanding and enforcing the decision.

The tribunal can decide to grant the application and may hear and decide the matter again, or make a different decision.

Appeals

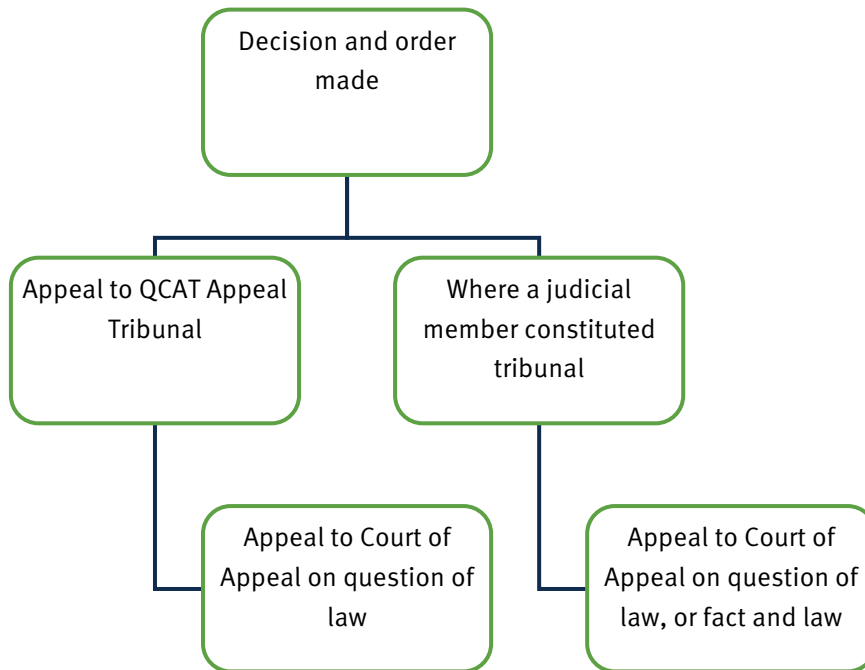


Figure 3: Appeals process

In some circumstances a party to a proceeding may appeal against a decision of the tribunal to the QCAT Appeal Tribunal based on a question of law, fact, or a combination.

In some circumstances an appeal can only be made with the leave of the Appeal Tribunal, which may be constituted by judicial members or members. If a judicial member constituted the tribunal and made the decision, then a party may be able to appeal to the Court of Appeal. In some circumstances an appeal can only be made with the leave of the Court of Appeal.