

2021–22

Annual Report

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Queensland Civil and Administrative Tribunal

## About QCAT's annual report

The Queensland Civil and Administrative Tribunal's (QCAT) annual report summarises its performance for 2021–22 and meets accountability requirements under the *Queensland Civil and Administrative Tribunal Act 2009*.

This annual report is accessible at [www.qcat.qld.gov.au/about-qcat/publications](http://www.qcat.qld.gov.au/about-qcat/publications).

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## Interpreter services



The Queensland Government is committed to providing accessible services to Queenslanders from all cultural and linguistic backgrounds. If you have difficulty understanding this annual report, contact us on 1300 753 228 to arrange an interpreter.

# Letter of compliance

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27 September 2022

The Honourable Shannon Fentiman MP  
Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of  
Domestic and Family Violence  
1 William Street  
BRISBANE QLD 4000

Dear Attorney-General,

I present the Queensland Civil and Administrative Tribunal's Annual Report 2021–22.

This annual report complies with the Tribunal's requirements under the *Queensland Civil and Administrative Tribunal Act 2009* and the *Guardianship and Administration Act 2000*.

Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Hon Justice Kerri Mellifont  
QCAT President

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# President's message

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This is my first report as President assisted by Judge Dann as Deputy President. I was appointed in November 2021 and Judge Dann was appointed in January 2022. I acknowledge the previous presidential team, Justice Martin Daubney AM and Judge John Allen QC\* in their efforts to keep QCAT's business on track, particularly through the challenges COVID-19 presented for an already extremely busy and stretched Tribunal.

When I commenced my term as President, QCAT was still operating under strictures necessarily imposed to respond responsibly to COVID-19. As I write this, in September 2022, we are eagerly anticipating a return, substantially, to in-person hearings from mid October 2022. The ways that managing COVID-19 required QCAT to alter its processes have been informative in some respects. Some parts of QCAT's business will continue to be conducted with technology, in the interests of trying to improve, in an ongoing way, QCAT's operations. Can I observe, however, in using technology, with all its quirks, to conduct often tricky hearings with self-represented parties, that our permanent and sessional members, our adjudicators and the magistrates who sit in the regions undertaking QCAT's work, have performed incredibly well and should be acknowledged. Our hearing support officers, other registry staff and business support staff have worked tirelessly to respond to these challenges too and to facilitate QCAT's work and their work should equally be acknowledged.

Having been at QCAT now for almost eleven months, I am still struck by the enormity of its remit. What a behemoth it has become since its inception. The breadth and diversity of its current jurisdiction, the volume of matters it now deals with, the geographical reach it needs to operate, providing services, often to vulnerable members of the Queensland community, would not have been fully foreseen when it was created back in 2009. In all areas of its work, QCAT is overstretched.

In the term of my presidency my aim, through a respectful dialogue with stakeholders and government, is to see QCAT resourced in a way which moves towards sustainability, particularly in QCAT's guardianship and administration jurisdiction, which exists to serve some of Queensland's most vulnerable citizens and touches the daily lives of thousands of Queenslanders. As is set out further in this report, increased resourcing in membership, registry and business support functions is imperative to achieve a sustainable model. Furthermore, it is critical that any significant increase in support to that work of QCAT does not come at a cost to QCAT's ability to operate in its other jurisdictions.

While those proposals are being developed, QCAT is not standing still. It is working on business processes in aiming to achieve more with the same resources. To that end we introduced the START project, operating from mid July 2022. More is written about that in this report, but essentially this project is trialling, in four nominated general administrative review work areas, a move away from a mandatory long compulsory conference to a model that involves a long directions hearing or short compulsory conference at the outset of the matter. At that initial hearing, all steps necessary to be ready for a hearing and allocation of a final hearing date are to be programmed. More will be apparent in next year's annual report about the results of this trial and any consequent changes in other work areas.

The report also sets out significant work which has been undertaken in this reporting period to try to streamline registry processes both to facilitate more efficient management of QCAT's work and to start to prepare QCAT for digitisation.

I have had unstinting support from QCAT's Executive Director and Principal Registrar Natalie Parker since taking up the appointment as President and from Julie Steel PSM Executive Director, Supreme, District and Land Court's service, as well as Chief Justice Bowskill and Senior Judge Administrator Martin. I wish to thank President Kingham of the Land Court for offering, and the then Chief Magistrate Judge Gardiner for enabling, QCAT to use the Land Court's facilities when they are available from time to time.

I have also had the great good fortune of being supported by the incredibly hard working and able Deputy President Dann.

I am grateful too for the ongoing harmonious working relationship which QCAT has enjoyed during the time I have been President with the current Attorney-General, Hon Shannon Fentiman MP, and with the senior executives of the Department of Justice and Attorney-General, particularly the Director-General, David Mackie, and the Deputy Director-General (Justice Services), Jennifer Lang. All have been supportive of QCAT while absolutely maintaining their respect for its independence.

Hon Justice Kerri Mellifont

\*QC title correct at 30 June 2022.

# Queensland Civil and Administrative Tribunal

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QCAT is an independent statutory tribunal established by the *Queensland Civil and Administrative Tribunal Act 2009*. The Tribunal plays an integral role in the Queensland justice system. QCAT resolves and determines disputes, reviews and referrals in a wide range of jurisdictions, including:

- civil disputes (including building disputes, tree disputes, community living disputes<sup>1</sup>, retail shop lease disputes, disputes about the sale of motor vehicles, disputes about losses resulting from the actions of real estate and other agents, and information privacy disputes)
- applications in relation to appointments of administrators and guardians (e.g. where an adult has impaired decision-making capacity, and making orders under the *Guardianship and Administration Act 2000* and the *Powers of Attorney Act 1998*)
- administrative review of government and statutory authority decisions (e.g. Queensland Building and Construction Commission, liquor licensing, blue cards, child protection, weapons licensing and racing)
- occupational regulation and discipline (e.g. referrals and reviews involving lawyers, health practitioners, police, teachers, veterinary surgeons and engineers)
- minor civil disputes (MCDs) (residential tenancy, minor debt, consumer and trader, motor vehicle property damage and dividing fence disputes)
- referrals by the Human Rights Commission Queensland (complaints of alleged unlawful discrimination, sexual harassment, vilification and victimisation).

The Tribunal also has an appeal jurisdiction.

In Brisbane, proceedings other than MCDs are heard by QCAT members at QCAT's premises at 259 Queen St. In other areas of South East Queensland (SEQ) and across regional and rural Queensland, QCAT members circuit to conduct hearings for proceedings other than MCDs. Regional sessional members also hear matters outside of Brisbane.

MCDs are heard in Brisbane by QCAT adjudicators, who also circuit to SEQ centres. In regional and rural areas, MCDs are heard by magistrates who are ordinary members of QCAT for MCD matters.

## Missions and values

QCAT's mission is to actively resolve disputes in a way that is accessible, fair, just, economical, informal and quick. QCAT prides itself on the professionalism, integrity and impartiality of its staff and decision-makers and values the right of parties to have access to a quality service.

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<sup>1</sup> Community title schemes disputes, manufactured homes disputes, retirement villages disputes

## Jurisdiction, powers and functions of the Tribunal

QCAT commenced on 1 December 2009, amalgamating 18 tribunals and 23 jurisdictions. Since then, its range of jurisdictions has been considerably expanded. QCAT's current legislative scheme consists of:

- the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act)
- the *Queensland Civil and Administrative Tribunal Regulation 2009* (QCAT Regulation)
- the *Queensland Civil and Administrative Tribunal Rules 2009* (QCAT Rules)
- 181 Acts, in addition to the QCAT Act, which confer jurisdiction on QCAT.

QCAT has three different types of jurisdiction: original, review and appellate.

QCAT's **original jurisdiction** covers three broad operational areas: human rights (for example, applications to appoint guardians under the *Guardianship and Administration Act 2000*); civil disputes (e.g. disputes about retail shop leases; residential building and MCDs of \$25,000 or under); and disciplinary (e.g. applications seeking disciplinary orders against solicitors under the *Legal Profession Act 2007*).

QCAT's **review jurisdiction** is conferred by enabling Acts and provides for QCAT to review administrative decisions made by government agencies and disciplinary bodies under enabling Acts. The review is conducted by way of fresh hearing on the merits.

QCAT's **appellate jurisdiction**, sitting as the Appeal Tribunal, provides for QCAT to hear appeals against decisions made by non-judicial members in its original and review jurisdictions, as well as decisions of other entities under enabling Acts.

## The Tribunal

Broadly speaking, the Tribunal's function is to determine proceedings filed by parties. All Tribunal decision-makers are independent statutory appointees, appointed by Governor-in-Council on the recommendation of the Attorney-General.

Members generally sit across, and hear proceedings in, a range of jurisdictional areas. Adjudicators determine MCDs. There is also a program, (presently in abeyance due to COVID-19 limitations) under which Justices of the Peace may sit as a panel of two (including one legally qualified JP) in MCDs where the claim is for \$5000 or less.

As at 30 June 2022, the Tribunal comprised\*:

- the President, who is a Supreme Court Judge
- the Deputy President, who is a District Court Judge
- 4 full-time Senior Members
- 1 acting Senior Member
- 11 full-time Members
- 3 part-time Members
- 4 acting Members
- 6 Judicial Sessional Members
- 99 Sessional Members (excluding judicial)
- 3 Land Court Sessional Members
- 9 full-time Adjudicators



- 4 part-time Adjudicators
- 3 acting Adjudicators
- 45 Justices of the Peace
- All Queensland Magistrates (automatically appointed as members of QCAT to hear MCDs).

\*The numbers of members reflect those in the position as at 30 June 2022. Numbers may vary during the reporting period as people who have temporarily acted in those roles are also included. Details are contained in [Appendix 1](#).

## The registry

The role of the QCAT registry, led by the Executive Director and Principal Registrar, is to provide administrative support for the Tribunal.

QCAT's registry is in Brisbane.

Local Magistrates Courts act as the QCAT registry across regional and rural Queensland and in SEQ (excluding Brisbane). Outside Brisbane, Magistrates Courts registry staff accept QCAT applications and supporting documents, receive application fees and assign hearing dates.

QCAT's registry is comprised of:

- The Human Rights Division (HuRD)
- The Civil, Administrative and Disciplinary Division (CAD)
- Client Services
- Operations Support
- Corporate Services.

## Registry workforce

QCAT's registry workforce comprises:

- 138.5 permanent registry positions
- 5 associates to Senior Members\*.

The QCAT registry workforce is supplemented by Magistrates Court registry staff providing registry services for QCAT in SEQ and regional centres.

The QCAT registry management team details are listed in [Appendix 1](#).

\*Includes a temporary position to support the Acting Senior Member role.

## Code of conduct and QCAT culture

The QCAT registry staff are required to abide by the Queensland public service [Code of Conduct](#) that specifies behavioural and service standards.

Further to this, all who work within QCAT, whether President, Deputy President, Tribunal, Adjudicators or registry, are expected to seek to uphold workplace principles and behaviours that build a positive, professional and productive workplace. This is encapsulated in a document entitled “*One QCAT: How we best work together*” approach that outlines four key principles and behaviours:

- Growth and Development
- Integrity and Respect
- Inclusion and Diversity
- Trust and Collaboration.

This “One QCAT” document was brought into existence in November 2019, with training in respect of same provided to some people within registry and Tribunal by an external provider.

In 2021-22, further training was provided to QCAT registry and Tribunal decision makers by the same external provider with a view to refreshing and reinforcing the expectations in “One QCAT”.

## Diversity and inclusion

QCAT’s approach is drawn from our One QCAT guide’s third principle “Inclusion and Diversity” that states we value diverse cultural and personal backgrounds, and strengths; and recognise and observe our individual professional and workplace ethics and codes of conduct.

Our inclusion and diversity vision also reflects the DJAG Inclusion and Diversity Strategy which aims for the Department’s workforce to better reflect the diverse community we serve and is inclusive and empowers everyone to contribute their best, regardless of gender, race, age, sexuality or disability.

In the reporting period, the practical steps we have taken include:

- recruiting Tribunal decision makers from First Nations’ background
- updating a number of forms to include references to accessibility and assistance needs at hearings
- having staff update equity and diversity information to gain a clearer understanding of QCAT’s diversity profile
- undertaking regular and dedicated training programs and support services for induction, employee mental and physical health and safety, domestic and family violence, bullying, and cultural diversity and First Nations capability competence
- representation on the DJAG Just Pride Working Group and the Queensland Public Sector LGBTIQ+ Steering Committee to support people who identify as LGBTIQ+ and allies
- ensuring attraction, recruitment and selection processes are inclusive, accessible and target core capabilities - a high ratio of female staff at 73 per cent
- supporting flexible working arrangements for people managing tertiary study, family commitments and other personal responsibilities - 19 staff work part-time and all staff are encouraged to make use of flexible work patterns.

# QCAT operations

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## QCAT funding

QCAT receives funding through government appropriation and through fees for service. In the reporting period, QCAT's total operating expense was \$29.916 M.

<b>Government appropriation \$26.298M</b>
<b>Revenue from fees for service \$3.617M</b>
<b>Total operating expenses \$29.916M*</b>

\*Total figure is accurate due to rounding.

In 2021-22, the Queensland Government allocated QCAT additional funding for workload demands and new jurisdictions, including:

- \$7.028 M and 4 FTEs over 2 years from 2021–22 to QCAT for registry improvements, responding to increased demand and addressing COVID-19 related backlogs due to increased staff absences. This includes funding for additional member and adjudicator resources
- \$3.54 M over 4 years, with 6.5 FTEs and an additional member and adjudicator to implement Rental Law Reforms, including additional grounds to end tenancies and a dispute resolution process to manage pet disputes, commencing on 1 October 2022
- \$181,000 to prepare for implementing QCAT's jurisdiction under the *Voluntary Assisted Dying Act 2021*, commencing 1 January 2023.

## At a glance

<b>28,952</b> cases finalised	<b>83,331</b> calls answered	<b>16,334*</b> proceedings scheduled	<b>79%</b> user satisfaction	<b>9,253</b> counter enquiries
<b>108%**</b> clearance rate	<b>30.89 minutes</b> call response time	<b>\$1,033</b> Average cost per matter	<b>641</b> confirmed interpreter bookings	<b>23,333</b> searches of QCAT records

\*Excludes MCDs.

\*\*Process changes to examining accounts of administration led to a decreased lodgement rate and increased Guardianship clearance rate.

## Workload and outcomes

The reporting period again saw a fall in cases lodged, which is against the trend of recent years. While the continuing impacts of COVID-19 played some role, the greatest decrease was in the Guardianship jurisdiction with 2782 fewer cases lodged compared to 2020-21. This was due to accounts of administration not being counted as lodgements from 1 July 2021.

QCAT's guardianship workload remains high, with 11,594 guardianship and administrator applications lodged in 2021-22.

However, some of QCAT's complex jurisdictions experienced a significant increase in lodgements, including the building list (27 per cent), and the anti-discrimination list (63 per cent) - requiring significant resources from both the Tribunal and Registry.

**Table 1** provides an overview of operations.

Service performance criteria	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Cases lodged	30,858	31,229	31,592	31,657	30,631	26,820
Cases finalised	29,736	31,326	30,395	30,610	28,727	28,952
1300 calls managed	107,313	112,515	83,426	86,847	83,522	83,331
Call response time (average)	3.53 minutes	15.51 minutes	6.87 minutes	7.82 minutes	9.95 minutes	30.89 minutes
Search request of QCAT records	16,136	15,866	13,764	15,206	21,241	23,333
Counter enquiries	10,803	13,418	12,929	13,141	10,189	9,253
Proceedings scheduled*	17,728	18,428	18,428	19,929	19,400	16,334
Cost per matter (average)	\$728	\$717	\$777	\$866	\$945	\$1,033
Interpreter and translation services provided	347	347	347	329	563	641
Complaint rate	0.70%	0.90%	1.10%	0.56%	0.52%	0.69%
User satisfaction rating	82%	81%	82%	82%	79%	79%

**Table 1: Overview of operations.**

\*Proceedings scheduled exclude MCD proceedings.

## Clearance rates

QCAT achieved a clearance rate of 108 per cent in 2021-22, which was eight per cent above the service delivery standard and 14 per cent higher than 2020-21.

Process changes to examining accounts of administration commenced from 1 July 2021 resulting in accounts not being counted as lodgements. This led to a decreased lodgement rate when compared to the previous reporting period and increased the Guardianship clearance rate YTD.

**Figure 1** displays QCAT's clearance rates from 2014 through to 2022.

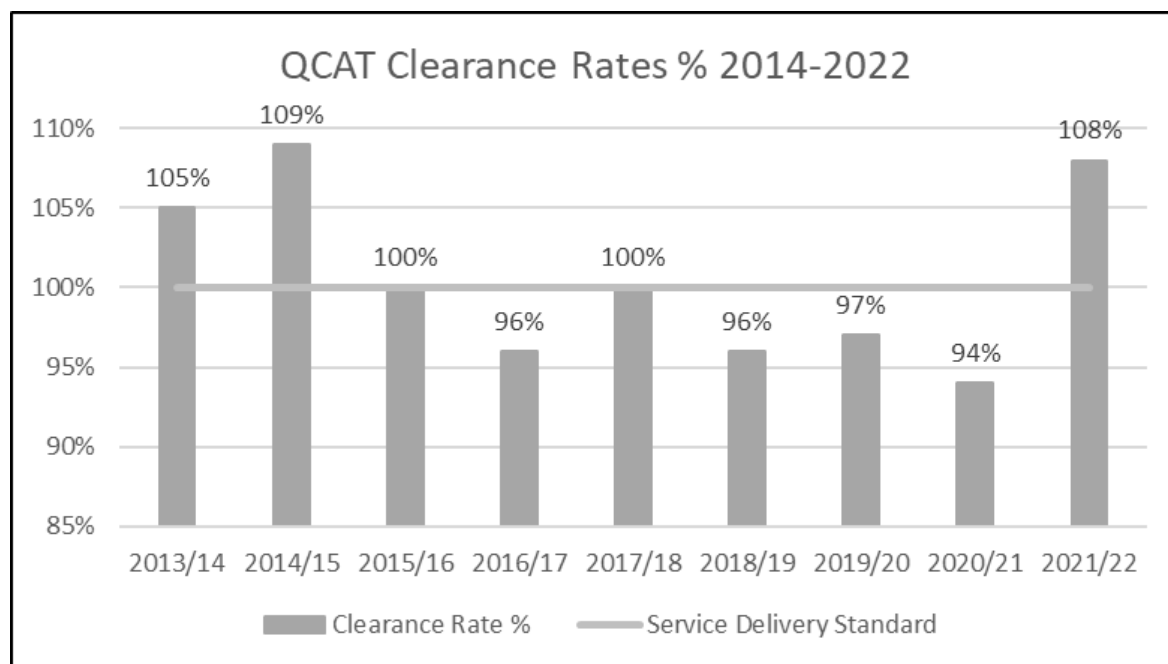


Figure 1: QCAT clearance rates 2014-2022 by percentage.

**Table 2** details cases pending over the past five years.

	2017-18	2018-19	2019-20	2020-21	2021-22	% Difference
Cases pending	6,165	7,362	8,409	10,313	7,937	-23%
Overall clearance rate	100%	96%	97%	94%	108%	14%

Table 2: Number of QCAT cases pending as at 30 June 2022 and percentage difference 2020-21 and 2021-22 financial years. Excludes MCD applications that were received by Magistrates Courts outside of SEQ.

## Outcomes by jurisdiction

QCAT is required to report the number and nature of matters (lodgements), the outcome of matters (clearance rates) and the number and nature of outstanding matters (pending at period end).

	Lodgements			Clearance rates			Pending at period end		
	2020-21	2021-22	% Diff	2020-21	2021-22	% Diff	2020-21	2021-22	% Diff
<b>Human Rights</b>									
Children – Child Protection**	197	215	9%	90%	94%	4%	132	135	2%
Guardianship	14,376	11,594	-19%	88%	112%	24%	5,680	4,144	-27%
<b>Civil</b>									
Anti-discrimination	64	104	63%	98%	66%	-32%	69	108	57%
Building	297	377	27%	78%	75%	-3%	326	442	36%
Children – Blue Card**	310	188	-39%	77%	112%	34%	348	315	-9%
Retail shop leases	172	166	-3%	80%	99%	19%	162	135	-17%
Minor civil disputes*	13,185	12,299	-7%	103%	108%	5%	1,688	675	-60%
Motor Vehicles	249	267	7%	91%	97%	6%	145	154	6%
Other civil disputes	98	95	-3%	98%	77%	-21%	192	103	-46%
Neighbourhood disputes	233	233	0%	56%	70%	14%	259	336	30%
<b>Administrative and disciplinary</b>									
General administrative review	665	563	-15%	64%	94%	30%	682	721	6%
Occupational regulation	392	324	-17%	103%	103%	0%	294	317	8%
<b>Appeals</b>									
Appeal Tribunal	381	380	0%	101%	93%	-8%	329	343	4%
<b>Re-openings and renewals</b>									
Re-openings	11	15	36%	82%	87%	5%	7	9	29%
Renewals	1	0	-100%	100%	0%	-100%	0	0	0%

Table 3: Outcomes by jurisdiction.

\*Excludes 5,433 MCD applications that were received by QCAT and dealt with by Magistrates outside of SEQ.

\*\*Children list split into child protection and blue card matters.

One of the largest QCAT jurisdictions is MCDs, details of which are in **Table 4** below.

	Lodgements			Clearance rates		
	2020-21	2021-22	% diff	2020-21	2021-22	% diff
<b>MINOR CIVIL DISPUTES</b>						
SEQ	13,185	12,299	-7%	103%	108%	5%
Non SEQ	5,553	5,433	-2%	103%	104%	1%
<b>Total</b>	<b>18,738</b>	<b>17,732</b>				
Tenancy – urgent						
SEQ	4,775	4,824	1%	97%	101%	4%
Non SEQ	1,932	1,977	2%	98%	103%	5%
<i>sub-total</i>	<i>6,707</i>	<i>6,801</i>				
Tenancy – non-urgent						
SEQ	3,342	2,860	-14%	100%	118%	18%
Non SEQ	1,588	1,327	-16%	103%	109%	6%
<i>sub-total</i>	<i>4,930</i>	<i>4,187</i>				
Other MCDs						
SEQ	5,068	4,615	-9%	111%	109%	-1%
Non SEQ	2,033	2,129	5%	106%	103%	-4%
<i>sub-total</i>	<i>7,101</i>	<i>6,744</i>				

Table 4: MCDs broken down by Residential Tenancy & Other MCD matters.

## Reserved decisions

As at 30 June 2022, QCAT had 106 outstanding reserved decisions (a decision that is not made at the hearing as it requires further consideration and is given a later date), which is 11 higher than at June 2021. Of these decisions, 54 were outstanding for less than 90 days, 18 between 90 and 180 days, and 34 for more than 180 days.

## Complaints

QCAT had a low complaint rate of 0.69 per cent for 2021-22. A total of 186 complaints were received during the reporting year. The majority of complaints received concerned QCAT's service delivery and policies and procedures. Over the past five years, the complaint rate has remained within the range of 0.5 per cent to 1.1 per cent (see **Table 1**).

## Open data

The [Queensland Government's Open Data](#) website details the volume of 2021-22 QCAT application lodgements listed by postcode.

## COVID-19

QCAT continues to comply with Queensland Health directions to ensure the safety of QCAT people, clients and visitors.

## Renovations

During 2021-22, the Queensland Government entered into a new seven-year lease for QCAT's Brisbane premises, and as part of the new lease, acquired half a floor on level 8 at 259 Queen St, Brisbane, to add to our existing premises at levels 9, 10 and 11. As part of the lease, the level 8 fit-out includes 50 workstations, three offices, a meeting room and a large training room. The new space allows all registry officers to have their own workstation and increases QCAT's meeting and training spaces.

## QCAT and the Magistrates Court of Queensland

QCAT's ability to provide consistent, quality justice services throughout south-east, regional and remote Queensland depends on the support provided by Magistrates Courts and their delivery of quality frontline services.

In 2021-22, QCAT established a QCAT and Magistrates Courts Collaborative Practice Network to improve the partnership with regional Magistrates Courts and to facilitate:

- a better understanding of capabilities and needs of Magistrates Courts in delivering QCAT services
- improvement of QCAT regional service delivery
- guidance to QCAT to develop a learning framework to better support Magistrates Court staff in delivering QCAT work
- consistent statewide implementation of new initiatives and operational changes.

Over the reporting period, QCAT has continued to update aspects of the online MCD handbook, which provides Magistrates Court staff with a clear understanding of the operational management of MCD duties.

QCAT has also increased its communications with Magistrates Court from the previous reporting year and has held a number of training webinars. QCAT also continues to answer questions from Magistrates Courts regarding MCDs as they arise.



# Whole of Tribunal issues and initiatives

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## Reserve decisions process

Tribunal decision-makers try, wherever possible, to deliver any decision which has been reserved, within three months. Sometimes this is simply not possible due to workload and other issues. QCAT recognises, though, the importance of reserved decisions being delivered within a reasonable time frame.

As such, it has implemented, in the first half of 2022, an internal review mechanism so as to keep track of the number of reserved decisions which are approaching, or have exceeded, the three-month mark and to then to take appropriate follow up steps, and sometimes attempt to temporarily adjust workload. This is not always achievable given resource limitations.

## Tribunal recruitment protocol

In the first half of 2022, QCAT moved to an expressions of interest model for the appointment of ordinary members, senior members, sessional members and adjudicators, and now has a dedicated webpage for that purpose.

This webpage was modelled on the Supreme, District and Magistrates Court webpage, but with appropriate adjustments for QCAT. The website operates as a “24/7 – 365 days” standing “advertisement” for QCAT Tribunal member and adjudicator positions. When specific vacancies arise, the webpage notes those vacancies and the date by which expressions of interest must be lodged.

Recruitment undertaken by QCAT is directed to ensure that recommendations for appointment are based on merit and pays due regard to diversity.

## Increasing judicial members

In the review year, five additional retired judicial officers were appointed as sessional members: Richard Jones, Colin Forrest SC, Julie Dick SC, Peter Murphy SC and David Reid. They are welcome additions to QCAT’s other judicial members, John Robertson, John McGill SC, Duncan McMeekin QC and Peter Lyons QC.

The appointment of these judicial members to QCAT will provide some significant assistance in dealing with the substantial workload which arises from matters which can only be heard and determined by judicial officers, including, but not limited to, appeals from decisions by Magistrates on MCD matters. QCAT is grateful to all its judicial members for giving back to the community by becoming sessional members at QCAT and bringing their very considerable experience and talent in decision-making.

## QCAT Rules Committee

The QCAT Rules Committee is established under s 223 of the QCAT Act. The functions of the Rules Committee include developing and reviewing the *Queensland Civil and Administrative Tribunal Rules 2009*, approving forms for use under the QCAT Act and subordinate legislation and any other function conferred on the Rules Committee under the QCAT Act or an enabling Act.

From July 2021 to November 2021, the Rules Committee consisted of Justice Daubney AM, his Honour Judge John Allen QC\*, Senior Member Howard, Member Howe and Member Murray. From November 2021 to February 2022, the Rules Committee consisted of Justice Mellifont, her Honour Judge Dann, Senior Member Howard, Member Howe and Member Murray. In February 2022, consequent on the resignation of Member Murray, Member Ford joined the Rules Committee.

In the reporting period, the Rules Committee reviewed and approved amendments to 19 MCD forms as a part of the MCD Forms Review Project. These forms were launched for public use in September 2021. The forms were updated and redesigned to facilitate transition to [QCase](#), the new civil case management system.

Following on from the launch of the Guardianship Reform 2021 project, an additional two guardianship forms were created/updated and approved by the Rules Committee during the reporting period.

\*QC title correct at 30 June 2022.

## START project

QCAT is undertaking a pilot project for a new approach to provide a shorter and more informative process for Tribunal users in some general administrative review lists.

The Strategic Administrative Review Transition (START) project changes the procedural approach for certain administrative reviews of government decisions to include having a long directions hearing or a short compulsory conference with an adjudicator quite early in the litigation process.

The traditional standard length compulsory conference will only occur where the Tribunal considers that it is desirable to do so in a particular case. This might be, for example, where the Tribunal forms the view that there is a realistic possibility that a compulsory conference might result in resolution of the matter, or meaningful narrowing of the issues; or where the Tribunal forms the view that a compulsory conference might be a better way to help a particular applicant to better understand QCAT processes.

The preliminary work for the roll out of the project was undertaken in the first half of 2022, with the first of the long directions hearings/short compulsory conferences occurring shortly after end of the financial year.

The roll out of the project includes practice directions to parties at the time of filing, which go beyond the usual style of practice directions, and includes information to parties up front about the litigation process and what to expect.

This information is received ahead of a long directions hearing or long conference proceeding. At these proceedings the litigation process is explained, realistic dates for filing are discussed and dates for hearings and/or other proceedings are set in real time based on parties' availability.

Case types covered by the new approach include dangerous animal destruction orders, blue card negative notices, weapons licencing and building regulation by the QBCC. These four lists are lists identified to be ones in which the traditional standard length compulsory conference has proved not to have an adequate rate of success in terms of resolution of part, or all, of the proceeding.

By moving away from the previous approach of directing the matters to the traditional standard length compulsory conference, QCAT expects to see significant reduction in the overall time of the litigation journey and a decrease in expense to the parties, and to QCAT, without sacrificing natural justice.

# Registry issues and initiatives

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## Digital transformation - QCase

QCAT and the Magistrates Court are currently using a 30-year-old computer system to manage civil claims across Queensland. All QCAT files are in paper format. Digital file management is QCAT's key business transformation goal.

During 2021-22, QCAT continued to work with the DJAG ICT Strategy Implementation Program to develop a new case management system, QCase, with the initial focus on MCDs. QCAT has engaged with key stakeholders in the residential tenancy jurisdiction as part of this development.

As a paperless portal, QCase will provide better features, including managing lodgements, payment of fees, self-service for parties to upload evidence and materials, scheduling, and file management tools. This project will give QCAT the capability to change its business operations by having an electronic case management system which it is anticipated will largely eliminate the need for paper files. To ensure equity of access, QCAT will, where required, accept paper-based filing.

QCase for MCD matters is expected to commence 2022-23.

In 2022-23, QCAT will also commence analysis work as part of the funded five-year DJAG ICT Strategy to extend QCase to all of QCAT's jurisdictions.

## CAD reform project

During 2021-22, progress was made on the Civil, Administrative and Disciplinary (CAD) Division Reform project. This was through Phase 3 of a three-year business transformation program aimed at improving the efficiency of administrative processes for both the registry and Tribunal for CAD matters, and to provide guided and targeted delivery of information to external QCAT users.

Key achievements of the project, led by the QCAT Registry Business Transformation Office, during the reporting period included:

- review and analysis of the current CAD webpages
- data collection, where possible within resource constraints, across various systems to seek to identify current trends of CAD website usage by QCAT users
- creation of QCAT user profiles to better understand how clients interact with the CAD website, and to inform development of the future website design
- a redesigned website adopting a human-centred design approach which puts clients at the centre of how QCAT delivers information
- development of telephone calling options to guide parties to the information and assistance they need when contacting QCAT's 1300 number
- working with the Tribunal to develop multiple online template directions for the conduct of matters.

## HuRD and CAD realignment projects

The QCAT Continuous Improvement Model aims to demonstrate a sustainable model to guide registry improvements. QCAT Managers and Registrars incorporate this model in the transformation activities they undertake.

During the 2021-22 financial year, QCAT's CAD and HuRD divisions implemented or refined their structures to guide improvements in business practices.

### **CAD**

The CAD registry implemented a process where, instead of one officer managing a file from start to finish, the key activities of case management were identified and assigned to mini teams of registry staff to action based on priorities at any given time.

### **HuRD**

The HuRD registry implemented a similar process for the management of new applications where the administrative tasks associated with opening and closing new applications are now allocated to small teams to complete.

Due to the complex nature of the guardianship jurisdiction, a single case manager remains responsible for the ongoing management of applications and information gathering for the tribunal member to consider when deciding an application.

This change, along with the implementation of the Guardianship Reform Project in the 2020-21 financial year, reduced the time spent by registry case officers on administrative tasks, enabling them to focus on the task of preparing matters for the tribunal. Further refinements will be made in the 2022-23 financial year to improve service delivery.

## Legislative reforms conferring further jurisdiction on QCAT

### **Voluntary Assisted Dying**

The *Voluntary Assisted Dying Act 2021* (the VAD Act) was passed on 16 September 2021 and the provisions relevant to QCAT commence on 1 January 2023. The Voluntary Assisted Dying Review Board (the Board) was established on 23 March 2022.

To be eligible to access voluntary assisted dying, two separate and independent medical practitioners (a coordinating medical practitioner and a consulting medical practitioner) must be satisfied that the person meets the eligibility requirements as set out in the VAD Act.

A person cannot request voluntary assisted dying in an advance care directive. People requesting voluntary assisted dying need to have decision-making capacity to ensure that their decision to access the scheme remains voluntary and consistent.

As to QCAT's role under this new legislation, an application can be brought to QCAT to review a decision made by a coordinating medical practitioner or a consulting medical practitioner by a person, their agent or any other person who has a sufficient and genuine interest in the rights and interests of the person.

Such an application for review of a “reviewable decision” to QCAT must be made within 5 business days after the “relevant day” for the reviewable decision. The “relevant day” is the day a relevant form (first assessment record form, consulting assessment record form or final review form) was given to them. If the applicant is the agent of the person or any other person who has a sufficient and genuine interest in the rights and interests of a person who is the subject of the decision, the “relevant day” is the day the applicant becomes aware of the reviewable decision.

QCAT can review the following aspects of such a decision:

- whether a person has been ordinarily resident in Australia for at least three years immediately before the person made the person’s first request
- whether a person has been ordinarily resident in Queensland for at least 12 months immediately before the person made the person’s first request
- whether a person has decision-making capacity in relation to voluntary assisted dying
- whether a person is acting voluntarily and without coercion.

QCAT does not have jurisdiction to review clinical issues such as disease-related eligibility criteria.

The VAD Act imposes some short turnaround times on QCAT. These are:

- within two business days after QCAT accepts an application the principal registrar must give a:
  - copy of the application for review to each party to the proceeding, the consulting practitioner (if there is a consulting practitioner and the consulting practitioner is not a party to the proceeding) and any other person to whom QCAT directs a copy of the application be given
  - notice to the relevant medical practitioner/s requiring the practitioner to give QCAT any documents in the practitioner’s possession that are relevant to the review (Notice)
- within two business days of receiving the Notice, the practitioner/s must provide QCAT with a copy of any documents in the practitioner’s possession or under its control that may be relevant to the review of the decision.

QCAT must, in accordance with section 119 of the QCAT Act, give its decision within a reasonable time. QCAT must give its final decision in the proceeding for the review of the reviewable decision to each party of the proceeding (and the consulting practitioner if there is a consulting practitioner and they are not a party to the proceeding) as soon as reasonably practicable after making the decision. The coordinating practitioner must provide a copy of QCAT’s decision to the Board within two business days after receiving the final decision.

QCAT has dedicated registry and Tribunal resources to seek to ensure that QCAT is in a position to be able to deal with applications under the VAD Act expeditiously, and good progress has been made in the reporting period in this respect.

### **Residential Rental Reforms**

In October 2021, the Queensland Government passed the *Housing Legislation Amendment Act 2021*. Under the reforms, from October 2021, QCAT has jurisdiction to enforce the new rights of residential tenants experiencing domestic and family violence to end a tenancy quickly or to remain in the rental property safely.

From 1 October 2022, QCAT will have jurisdiction to:

- resolve disputes between tenants and lessors where the lessor unreasonably refuses a tenant to have a pet in the tenancy
- determine disputes in relation to the expanded reasons to end a tenancy early, or the strengthened repair and maintenance obligations for tenancies.

From 1 September 2023, prescribed minimum housing standards will apply for new tenancies. From 1 September 2024, prescribed minimum housing standards will apply for all other tenancies. QCAT will have jurisdiction to resolve disputes where the minimum housing standards have not been met.

QCAT has dedicated registry and Tribunal resources for three years to seek to ensure that QCAT is in a position to be able to deal with such applications within a reasonable period after commencement of these reforms.

## Land Court initiative

The Land Court generously offered the use of Land Court's Brisbane facilities for QCAT proceedings, from time to time, on a need's basis.

In addition, under sections 171, 183 and 186 of the QCAT Act, on 24 May 2022 Members Peta Stilgoe OAM, James McNamara and William Isdale of the Land Court were sworn in by Chief Justice Bowskill as ordinary members of QCAT on a sessional basis. This was part of an important resource sharing arrangement initiated by President Kingham of the Land Court, and facilitated by the Attorney-General's recommendation to Governor-in-Council for the appointments of Land Court members as sessional members.

Under this initiative, Members Stilgoe OAM, McNamara and Isdale will hear and determine some QCAT matters, when time permits, without charge to QCAT.

This initiative builds on the initiative earlier in 2022 of President Kingham to make some of the Land Court facilities available to QCAT for the hearing of cases, facilitated also by the permission given by Chief Magistrate Gardiner (as his Honour then was) to use those facilities which are housed within the Magistrates Court building on George Street.

Both of these initiatives are very much welcomed by QCAT and the President, Justice Mellifont, is most grateful to those involved. The initiatives have demonstrated very productive and positive collaboration between the Land Court and QCAT, members and registry alike.

# Human rights division

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In its human rights division, the Tribunal exercises functions relating to:

- guardianship and administration
- child protection
- financial accounts.

## Guardianship and administration

The guardianship list considers applications primarily brought under the *Guardianship and Administration Act 2000*. The work undertaken by the Tribunal in guardianship includes:

- making decisions about the capacity of an adult
- appointing guardians and administrators and reviewing their appointment
- approving the use of restrictive practices under Chapter 5B, that is, for a particular cohort of adults, in certain settings – such as approving the use of containment, seclusion or other restrictive practices
- making declarations, orders, recommendations and giving directions and advice to guardians and administrators
- approving decisions or proposed decisions by informal decision-makers
- consenting to special health care
- assessing the actions of appointed administrators by examining annual accounts of administration.

The Tribunal may also make a “limitation order”, in respect of guardianship matters but only to the extent necessary, if the Tribunal is satisfied it is necessary to avoid serious harm or injustice to a person. The different types of limitation orders are an Adult Evidence order; a Closure order; a Non-Publication order; or a Confidentiality order. Pre-hearing Non-Publication or Confidentiality orders are vacated at the subsequent hearing, at which time the Tribunal may make a further order, upon hearing from the parties and any person with standing.

A copy of all limitation orders made at a hearing is provided to the Public Advocate. This includes all information that was before the Tribunal in its consideration of the making of the limitation order, including the document or other information that is the subject of the limitation order and the Tribunal’s written reasons for making the order.

Lodgements in the guardianship jurisdiction decreased by 19 per cent in 2021-22. This is 2,782 less matters, but the reduction is due to no longer counting the filing of annual accounts by appointed administrators as lodgements, rather than in other areas of QCAT’s guardianship jurisdiction which have shown significant increases, both in quantum and complexity.

The guardianship clearance rate during the 2021-22 reporting period was 112 per cent, which is a significant increase from the previous year’s result of 97 per cent. Again, a substantial component of this change is with respect to financial accounts examination.

Since QCAT commenced, the demand for its services has vastly increased in the guardianship jurisdiction, and probably at levels which were not necessarily foreseeable. This increase in demand has not been met with a corresponding increase in resources to support decision makers and to try to cope with the demand.



The Guardianship jurisdiction is one of QCAT's largest jurisdictions. With an ageing population, increased awareness of the effect of control on vulnerable Queenslanders, increased diagnosis and treatment of mental health and significant reform in the aged and disability sectors, the guardianship list is ever increasing in size, volume and complexity.

The role of the QCAT registry is unique in the guardianship jurisdiction. The process is not 'party driven' in so far as once an application is made, the adult subject to the application is the primary focus. Section 130 of the *Guardianship and Administration Act 2000* places the onus on QCAT to ensure it has all relevant information and material (with limited statutory exceptions to this requirement, as set out in section 131, that is "urgent or special circumstances"). Ensuring that QCAT has all relevant information and material may require contact be made with a significant number of people within the adult's support network.

This inquisitorial jurisdiction is different from most other QCAT jurisdictions which are adversarial in nature. In practice, this means the QCAT registry needs to assist in discharging this inquisitorial function, identifying shortfalls in information provided by parties, exercising judgement in identifying key issues to explore, and ensuring there is sufficient information available for the Tribunal to make an informed decision.

During the reporting period, applications awaiting a final hearing have increased by 15 per cent and the average time to finalise a matter has increased from 14 to 16 weeks. Some matters take considerably longer. Increases in time to finalisation can have an exponential effect on the cost and use of resources in a matter. This is because increases in time can lead to interlocutory applications which would otherwise be unnecessary.

QCAT will continue to work with government to find sustainable solutions in this extremely important jurisdiction in order to assist one of Queensland's most vulnerable cohorts. The tribunal's work, when able to be undertaken in a timely manner, operates to provide a protective mechanism against elder abuse and domestic and family violence.

Section 83 of the *Guardianship and Administration Act 2000* requires QCAT to report on:

- the number of applications, approvals and orders made under chapter 5B of the Act during the year
- the number and type of limitation orders made by the Tribunal.

**Tables 6, 7 and 8, which are set out in Appendix 2,** provide the information for those reports.

## Child protection

In its review jurisdiction, the Tribunal reviews some child protection decisions made by the Department of Children, Youth Justice and Multicultural Affairs, including decisions relating to the removal or placement of children and contact with children under the custody of the Department.

In 2021-22, 215 child protection applications were lodged in QCAT. The Tribunal convenes compulsory conferences to identify the key areas of concern for applicants and to facilitate agreements. Of the matters which progressed to a compulsory conference, 42 per cent were resolved at the conference. This is a decrease in matters resolved at compulsory conference, from 65 per cent in 2020-21. It is difficult to precisely know the reason for this decrease, but it seems possible that COVID-19 related issues, including less face-to-face compulsory conferences, played a part.

Still though, 97 per cent of all child protection applications were finalised prior to a Tribunal hearing, up from 94 per cent last year.

In this jurisdiction, the paramount principle is ensuring the safety, wellbeing and best interests of the child. Consistent with this principle, the Tribunal seeks to ensure that all relevant material is before the Tribunal, that there is appropriate representation for the child or opportunity for their views to be expressed, and that all appropriate parties are joined in the proceedings. This can sometimes occasion delay, albeit necessary delay, in order for QCAT to fulfil its statutory function in this important protective jurisdiction.

In a number of cases, the QCAT child protection review proceedings are suspended because of concurrent proceedings before the Children's Court. This is a requirement under the *Child Protection Act 1999* and ensures issues that are relevant to court proceedings are not dealt with by two separate jurisdictions simultaneously.

## QCAT hospital hearing program

QCAT conducts some hearings for guardianship and administration matters in public hospitals where the adult is a patient (hospital hearings program). The permanent program is conducted in hospitals administered by the Metro North Hospital and Health Service (MNHHS) and the West Moreton Hospital and Health Service (WMHHS). In the reporting period, the program was expanded Statewide. These are hearings for adults who may have impaired decision-making capacity, are clinically well and are ready for discharge, but due to possible impaired decision-making may not be able to be safely discharged, pending a determination of the applications before the Tribunal.

Under the hospital hearings program, QCAT holds hearings 'on-site' at various hospitals to enhance the ability of the adult to attend and participate fully. QCAT utilises various remote conference technology to support the programme, with the majority of hearings via videoconference, which proves to be effective for the adult's participation. Adoption of this program has resulted in a reduction of the period from filing an application to a Tribunal hearing and decision being made from an average of 14-16 weeks to less than six weeks for all Queensland Health locations within the program, for the matters that were considered appropriate to be heard in this timeframe. In the 2021-22 reporting period, this has decreased further to four weeks. Matters for hospital patients involving high levels of conflict between members of the support network and other issues of complexity (e.g. unclear capacity diagnosis, complex financial arrangements; issues with an Enduring Power of Attorney document) cannot proceed to hearing in the shorter time frame and, accordingly, are dealt with as part of the general guardianship list.

The success of the pilot program, commenced in the first half of the 2020-21 financial year has resulted in further extensions, with temporary funding allocated to run the expanded initiative through to June 2023. QCAT and Queensland Health will continue to review the effectiveness of the initiative, with a view to considering making the arrangement permanent in the future.

## Civil, administrative and disciplinary division

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The Tribunal determines proceedings in a broad range of jurisdictions in its Civil Disputes Division and its Administrative and Disciplinary Division, referred to as CAD, including:

- domestic building disputes (no monetary limit)
- commercial building disputes (no monetary limit, subject to a requirement of consent of the parties where the claim or the counter claim exceeds \$50,000)
- tree disputes
- motor vehicle disputes (up to \$100,000)
- community living disputes (in community title schemes; retirement villages; manufactured home parks)
- retail shop lease disputes (up to \$750,000)
- information privacy disputes
- occupational regulation and disciplinary matters
- review of a large variety of administrative decisions made by government decision-makers.

CAD faced a large number of unresolved matters from the previous financial year due to delays caused by the COVID-19 pandemic. Despite the ongoing problems caused by COVID-19 and natural disasters the registry and membership of the Tribunal have actively case managed matters and introduced a number of initiatives such as a “blitz” of additional hearings to finalise a greater number of matters.

Lodgements have increased in the motor vehicle, anti-discrimination and building lists while other lists have either had stable lodgement numbers or a decrease, the largest decrease being by 39 per cent for blue card reviews.

An increasing number of CAD matters are becoming more complex, both procedurally and in terms of subject matter. This is reflected in the significant increase in the number of interlocutory applications per matter.

Resourcing remains an issue for the Tribunal and the registry. Every CAD matter is “case managed” by a senior member or an ordinary member, and this necessary function of case management is occupying an increasing amount of member resources. This, in turn, diminishes the time available for the membership to devote to hearing and determining interlocutory applications and final hearings.

The Tribunal is heavily reliant on its sessional member cohort to discharge its functions, however, QCAT’s sessional member budget is limited. The practical impact is that although there are increasing numbers of matters before the Tribunal, in relative terms there are increasing limited decision-making resources available to case manage and decide those matters.

While the registry as a whole has been heavily impacted by COVID-19, the CAD registry team has implemented changes aimed to address backlogs and provide better services to parties and the Tribunal.

There have been increases in the clearance rates for blue cards (112%), retail shop leases (99%), MCDs (108%), motor vehicle disputes (97%), neighbourhood disputes (70%) and general administrative review (94%).

## Minor Civil Disputes

In the reporting year almost 17,500 civil claims in the MCD jurisdiction were brought throughout Queensland. These matters comprise a range of monetary (up to \$25,000) and non-monetary disputes, accounting for the largest volume of lodgements at QCAT.

These disputes can have serious consequences for the welfare, dignity and daily living arrangements of the people concerned.

MCDs include:

- residential tenancy disputes
- minor debt disputes
- consumer and trader disputes
- motor vehicle property damage disputes
- dividing fence disputes.

Most MCDs in SEQ are decided by QCAT adjudicators. In regional areas, MCDs are heard by Magistrates sitting as QCAT members. Overall, 13,312 matters were heard across Queensland in the reporting year.

The MCD jurisdiction achieved a clearance rate of 108 per cent in SEQ, despite some upheaval due to COVID-19 related arrangements. This is a 5 per cent increase in the clearance rate over the previous financial year.

At the beginning of the reporting period, the average weeks to hearing were:

- Urgent Tenancy = 3 weeks
- Non-Urgent Tenancy = 16 weeks
- Other matters = 21 weeks
- Mediations = 12 weeks.

At the end of the reporting period, the average weeks to hearing were:

- Urgent Tenancy = 3 weeks (stable)
- Non-Urgent tenancy = 16 weeks (stable)
- Other matters = 13 weeks (huge reduction)
- Mediations = 9 weeks.

This achievement was due to the following:

- Mediations undertaken by the Dispute Resolution Branch (DRB) within DJAG increased so they ran two mediation rooms to reduce the backlogs
- Additional resources were provided to reduce the wait times in the listing of non-urgent tenancy and other matters. These included 'blitz' weeks during the recess period, when additional hearing rooms and additional adjudicators were provided to increase the amount of matters listed and finalised.

## Anti-discrimination

The Tribunal hears complaints of alleged unlawful discrimination, sexual harassment, vilification, and victimisation after they have been investigated and referred to QCAT by the Queensland Human Rights Commission. Anti-discrimination matters are often complex and resource intensive for the Tribunal.

In the reporting period, there was a 63 per cent increase in referrals from the Queensland Human Rights Commission. This resulted in a reduction of the clearance rate to 66 per cent.

# Appeals

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The Appeal Tribunal provides an internal appeal process for parties dissatisfied with decisions of the Tribunal made in its broad original or review jurisdictions, where the Tribunal was not constituted by a judicial member.

The Appeal Tribunal also hears appeals on questions of law from decisions made by other decision-makers under the *Body Corporate and Community Management Act 1997* and the *Right to Information Act 2009* and *Information Privacy Act 2009*.

The President chooses a member or members to constitute the Appeal Tribunal for an appeal. The Appeal Tribunal may consist of one, two or three members. A judicial member must be constituted as the Appeal Tribunal for appeals from MCD jurisdiction decided by magistrates and in external appeals brought under the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

The number of appeals filed in 2021-22 was approximately commensurate with the previous four financial years, and thus a trend away from comparatively higher numbers in the early years after QCAT's establishment.

The majority of appeals are in MCD matters.

The clearance rate (that is, in percentage terms, the number of appeal proceedings finalised in the reporting year compared to the number of appeals filed in the reporting year) in appeals fell by 8 per cent to 93 per cent in 2021-22. This is explained by resourcing issues.

# Major achievements 2021-22

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## Recording and Transcription project

Over the reporting period, good progress has been made by Queensland Courts and Tribunals to transition to a new recording and transcription service delivery model.

The new recording and transcription service delivery model brings the provision and management of recording back to the Department of Justice and Attorney-General under the responsibility of Queensland Courts Services. Transcription will be outsourced to a panel of providers to seek to ensure quality and timeliness of court transcripts and to seek to obtain best value for money.

The [QTranscripts](#) portal will be the communication pathway for court and QCAT users to request and receive transcripts and audio recordings. This portal enables direct communication in relation to requests and allows requests to be tracked in real time. It is anticipated that the new recording and transcription service will be fully rolled out across Queensland by the end of 2022.

## Guardianship reform project

In the reporting year, QCAT completed the Guardianship Reform 2021 project as part of Phase 2 of a three-year business transformation program. The project was officially launched on 23 July 2021. The outcomes of the project were intended to assist the adult, members of the public, service providers and others who have the need to engage with QCAT's guardianship jurisdiction, and to seek to create efficiencies within QCAT to try to alleviate some workload pressures.

The project focussed on seeking to improve information gathering procedures, prioritising particular aspects of file management and improving the quality of information provided to parties in respect of QCAT processes.

Led by the Business Transformation Office, key achievements of the project during the 2021-22 period included:

- review and redesign of the guardianship website content and structure with a human centred design and accessibility focus to improve the user experience
- production of three guardianship videos to better prepare parties for a hearing by providing information about what to expect before, during and after a hearing
- improvements in processes for information requests to parties
- development and delivery of a bespoke training program for staff in respect of the new processes
- redesign of guardianship forms consequent upon the 2020 amendments made to the *Guardianship and Administration Act 2000*
- providing callers with targeted information regarding guardianship when on hold on the 1300 number
- improved online application forms providing the ability to parties to electronically lodge documents with the Tribunal.

## Minor civil disputes forms project

In early 2020, the MCD Forms Review project was commenced to seek to enhance the delivery of QCAT and MCD services through the revision and creation of simple and user friendly MCD application and party use forms, and to improve the overall QCAT user experience.

Revision of the MCD forms was essential in order to facilitate electronic lodgement and file management, and to enable integration into QCAT's new civil case management system [QCase](#).

During the 2021-22 reporting period, key project achievements included:

- conducting registry and Tribunal workshops to identify current form issues, constraints and amendments required
- review and redesign of 22 MCD application and party use forms, for which approval was then given by the Rules Committee
- publication of the redesigned forms on the QCAT website, and placement of same within the registry and at the front counter to assist external QCAT users
- communication of form changes and updates delivered to registry staff, Tribunal and the Magistrates Court
- provision of the updated forms to the QCase team for digital integration
- updating the MCD Handbook consistent with the update to the reviewed and redesigned forms and development of a bespoke staff training program and materials with new form content.

The project went live on 6 September 2021 with the launch of all redesigned MCD forms. The timing of the launch was so as to permit the registry and Tribunal to adapt to the new forms before the launch of the new QCase system.



## Forecast of workload

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QCAT has seen a 12 per cent decrease in the total number of lodgements in 2021-22 compared to 2020-21. As will be explained below, though, this decrease in total number does not equate to a decrease in the amount of work QCAT has. The contrary is true.

The greatest decrease was in the MCD jurisdiction (largest by volume and includes residential tenancy matters), at 7 per cent from 2020-21 (12,299 lodgements in 2021-22 compared to 13,185 lodgements in 2020-21). QCAT also implemented process changes to examining accounts of administration, commencing from 1 July 2021, resulting in accounts not being counted as lodgements. This results in a decreased lodgement rate when compared to the previous reporting period.

There was however an increase in lodgements in some of QCAT's complex jurisdictions. Compared to 2020-21, QCAT experienced increases in lodgements across the anti-discrimination list (63 per cent increase) and building list (27 per cent increase), resulting in significant increases in active files as at 30 June 2022 in these lists.

QCAT's guardianship workload remains high, with 11,594 guardianship and administration applications lodged in 2021-22. Active guardianship files case managed monthly has increased by 17 per cent in 2021-22 with an average of 2,100 guardianship files managed by QCAT each month (increased from 2021-22 average of 1,786 files per month).

It is anticipated that in 2022-23, increases in guardianship and administration lodgements and interlocutory applications will continue.

In all this means, QCAT will have more work overall in 2022-23 than before, with projections for that work to increase year by year, particularly in guardianship, given the ageing population.

## Proposals for improving quality of decision making across government

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It is accepted that the publication of decisions on QCAT's website adds to the body of law available to government decision-makers, and those engaging with government in respect of those decisions, and can, in this way, improve the quality of decision making.

Currently QCAT resourcing means that there are limitations on the number of decisions which are able to be published, but QCAT intends to work with government on this issue.

## Proposals for improving the operation of the Tribunal in the present financial year

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During the present financial year, in addition to the ongoing work in various registry projects referred to above, the following projects are anticipated to improve the operation of the Tribunal, or to generate proposals for improving the operation of the Tribunal:

- QCase will be implemented in QCAT in its MCD jurisdiction during the present financial year. Digitisation is critical for QCAT's continued operations
- Pursuant to s 240(1) of the QCAT Act, the Minister must review the QCAT Act, given the last review was undertaken in 2018. Section 240(2) of the QCAT Act provides that the objects of the review include—
  - deciding whether the objects of this Act remain valid
  - deciding whether this Act is meeting its objects
  - deciding whether the provisions of this Act are appropriate for meeting its objects
  - investigating any specific issue recommended by the Minister or the president, including, for example, whether any provision of an enabling Act affects the effective operation of the tribunal
- Both the Deputy President and I look forward to that review, and to working collaboratively with Government, providing such contributions as we can, focusing on practical suggestions to facilitate improving the operation of the Tribunal, in the discharge of my functions under s 172 of the QCAT Act and the Deputy President's functions to assist me under s 174 of the QCAT Act.

# Appendix 1 — Member and registry directory

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## Judicial Members

The Honourable Justice Martin Daubney AM, President (to 21 November 2021)

The Honourable Justice Kerri Mellifont, President (from 22 November 2021)

His Honour Judge John Allen QC\*, Deputy President (to 25 January 2022)

Her Honour Judge Geraldine Dann, Deputy President (from 26 January 2022)

## Senior Members

Professor Ned Aughterson

Ian Brown

Tina Guthrie

Michelle Howard

## Acting Senior Members

Michael Howe (16 August 2021 – 11 February 2022)

Paul Kanowski (19 April 2022 – 13 May 2022)

Samantha Traves (14 February 2022 – 30 June 2022)

## Ordinary Members

Joanne Browne

Glen Cranwell

Sandra Deane

Ann Fitzpatrick

Julie Ford

Susan Gardiner

Michael Howe

Paul Kanowski

Barbara Kent

Gwen Murray (resigned 24 February 2022)

David Paratz

Samantha Traves

## Acting Ordinary Members

John Bertelsen (until 16 November 2021)

Michelle Lember (20 September 2021 – 11 February 2022 and 30 May 2022 – 30 June 2022)

Louise McDonald (20 September 2021 – 11 February 2022)

Gerard Sammon (29 November 2021 – 11 February 2022)

Carol Lee (14 February 2022 – 20 May 2022)

Pam Goodman (14 February 2022 – 30 June 2022)

Talitha Burson (14 February 2022 – 30 June 2022)

Simone Matthews (14 February 2022 – 30 June 2022)

## Adjudicators

John Bertelsen

Gabrielle Mewing

Elizabeth Gaffney

Jodie Stroud

Marcus Katter

Derek Struik

William LeMass

Alan Walsh

Michelle Lember

Anna Walsh

## Acting Adjudicators

Tonya Marshall (20 September 2021 – 29 November 2021 and 26 April 2022 – 30 June 2022)

Peter Eardley (20 September 2021 – 18 March 2022 and from 30 May 2022)

Sasanka Munasinghe (20 September 2021 – 11 February 2022 and 21 March 2022 – 22 April 2022)

Danae Younger (14 February 2022 – 30 June 2022)

## Judicial Sessional Members

Hon Peter Lyons QC\*

John Robertson

John McGill SC

Richard Jones

Hon Duncan McMeekin QC\*

Colin Forrest SC

## Sessional Members

Jim Allen	Karen Garner	Timothy Matthews QC*
Stephen Armitage	Christopher George	Donald McBryde
Adrian Ashman	Pamela Goodman	Louise McDonald
Brydget Barker-Hudson	Peter Goodwin	Andrew McLean Williams
Rodney Barnes	Jeremy Gordon	Jennifer McVeigh
Dr Sandra Baxendell	Dr Wendy Grigg	Gabrielle Mewing
Barbara Bayne	Geoffrey Gunn	Elissa Morriss
Peter Bridgman	Ian Hanger AM QC*	Natalie Myatt
Dr Christopher Bridges	Patricia Hanly	Roslyn Newlands
Susan Burke	Renea Hart	Jon Norling
Lisa Butson	Carolyne Hemingway	Ross Oden
John Carey	Steven Holzberger	Robert Olding
Christopher Carrigan	Elizabeth Hulin	Richard Oliver
Julia Casey	Noel Jensen	Robyn Oliver
Les Clarkson	Adam Johnson	Louise Pearce
Tina Cockburn	Mark Johnston	Bryan Pickard
Dr Alan Collier	Neil Judge	Vass Poteri
Simon Coolican	Sandra Kairl	Graham Quinlivan
William Cooper	Dr Dominic Katter	Dr Robert Rees
Andrew Corrigan	Marcus Katter	Linda Renouf
Kristy Crabb	Dr Shelley Keane	Christine Roney
Rosemary Dalby	Benjamin Kidston	Peter Roney QC*
John Davies	Robert King-Scott	Keta Roseby
Rodrigo De Luca	Patricia Kirkman-Scroope	Dr Richard Roylance
Raelene Ellis	Vincent Knox	Jennifer Sheean
Clare Endicott	Peter Krebs	Annette Sheffield
Richard English	Ross Lee	Dr Rosemary Stafford
Paul Favell	William LeMass	Dr Daniel Stepniak
Penelope Feil	Darren Lewis	Derek Struik
Jennifer Felton	John Lobban	Christopher Taylor
Dr Brian Fitzgerald	Stephen Lumb	Paul Williams
Dr John Forbes	Mary (Lynne) Matsen	Michael Wood

\*QC title correct at 30 June 2022.

## Land Court Sessional Members

William Isdale

James McNamara

Peta Stilgoe OAM

## Justices of the Peace

James Anderson

Mark Anthony

Paul Arthur

Lawrence Ballinger

David Barkley

Leigh Bernhardt

Gloria Beyers

Robert Brummell

Bryan Carpenter

Chiu-Hing Chan

Michael Corlett

John Crighton

Christine Cuthbert-Steele

Peter Dollman

Malcolm Edmiston

Kevin Erwin OAM

Vincent Everett

Katherine Jane Fenwick

Michael Francis

Anthony Friel

Arthur Fry

Marian Goddard

Sean Goodsir

Samuel Hardin

Jane Hawkins

Marilyn Heath

John Howie

Angela-Marie James

Trudi Jobberns

Raymond Kelly

Jason Lawler

Susan Lindsay

Bruce Little

Lynette Maguire

Rob Martin

Suzanne McCormack

Karl McKenzie

Carmel McMahon

Barry McPhee

Christopher Mills

Jessica Mills

Deanna Minchio

Stacey Morton

Shirley Murray

Mejrem Mustafa

Joanne Myers-Cave

Catherine O'Donnell

Stephen Osachuk

Adam Ozdowski

Noel Payne OAM

David Phipps

Graeme Rogers

Carol Ann Rolls

Hedley Rye

Darryl Schmidt

Stuart Smith

Alan Snow

James Stackpoole OAM

Helen Staines

Bruce Starkey

Darren Swindells

Bill Thomas

Barry Vickers

Carole Watson

Jodie Wrench

Angela Yin

# Registry Executive

## **Executive Director and Principal Registrar**

- Natalie Parker

## **Deputy Principal Registrar**

- Melissa Meldrum (until 5 June 2022)
- Mathew James (from 6 June 2022)

## **Director, Registry Improvement and Support**

- Mathew James (until 31 December 2021)
- Brendan Carlson (from 1 January 2022)

## **Registrar CAD**

- David Bancroft

## **Registrar HuRD**

- Mathew James (until 5 June 2022)
- Elisa Robbins (6 June 2022 to 30 June 2022)

## **Business Transformation Office Executive Manager**

- Brendan Carlson (until 31 December 2021)
- Peta Fraser (14 March 2022 – 8 April 2022)
- Madeline King (from 20 April 2022)

## **Client Services Manager**

- Brett Newsome

## **Business Services Manager\***

- Varuni Weerasinghe (until 6 October 2021)
- Nerida Mead (from 7 October 2021)

\*In May 2022, the registry sadly marked the passing of its Business Services Manager Justine Steele.

## **Operations Support Manager**

- Terry McDonald (until 3 October 2021)
- Chontelle Wells (from 4 October 2021)

## **Communications Manager**

- Andrew Dunne

## **Human Resources Manager**

- Angela Eickenloff (until 15 October 2021)
- Terry McDonald (from 16 October 2021)

## Appendix 2 — *Guardianship and Administration Act 2000* reporting requirements

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Section 83 of the *Guardianship and Administration Act 2000* requires QCAT to report on:

- the number and type of limitation orders made by the Tribunal
- the number of applications, approvals and orders made under chapter 5B of the Act during the year.

**Tables 6, 7 and 8** provide the information for those reports.

	Application for guardianship for restrictive practice matters		Review of guardianship for restrictive practice matters	
	2020-21	2021-22	2020-21	2021-22
Order made	184	212	250	306
Dismissed / revoked	31	45	50	48
Deceased	1	8	0	1
Withdrawn at hearing	23	26	2	1
Rejected	1	6	0	1
<b>Total</b>	<b>240</b>	<b>297</b>	<b>302</b>	<b>357</b>

**Table 6:** Applications and review of guardianship for restrictive practice matters.

The number of reviews of guardianship for restrictive practice are cyclical due to legislative changes in 2015 to allow two-year appointments of guardians. Prior to 2015, only one-year appointments were permitted. As such, the number of reviews varies significantly each year, due to the pre-2015 appointments being on a two-year review cycle.



## Containment, seclusion and other restrictive practices approvals

	Approved		Dismissed/ Revoked		Withdrawn/ Administrative Closure/Rejected		Total	
	2020-21	2021-22	2020-21	2021-22	2020-21	2021-22	2020-21	2021-22
Containment	11	12	3	7	3	10	17	29
Review of containment	36	35	3	2	0	2	39	39
Seclusion	6	9	1	1	0	1	7	11
Review of seclusion	33	26	2	2	0	1	35	29
Application for another restrictive practice	8	13	0	4	2	4	10	21
Review of application for another restrictive practice	45	47	5	3	0	1	50	51

**Table 7:** Containment, seclusion and other restrictive practices approvals.

## Limitation orders

Limitation order type	2020-21	2021-22
Adult evidence order (s.106)	12	5
Closure order (s.107)	4	4
At Hearing Non-publication order (s.108)	14	18
Pre-Hearing Non-Publication Order (s.110)	16	6
At Hearing Confidentiality order (s.109)	33	50
Pre-Hearing Confidentiality order (s.110)	44	37

**Table 8:** Limitation orders.

## Appendix 3 — Legislative reviews

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### Regulation amendments

The QCAT Regulation was amended during the reporting period by the *Justice Legislation (Fee Unit Conversion and Other Matters) Amendment Regulation 2022*.

### Legislative review

The QCAT Act was not amended during the 2021-22 reporting year.

The enabling Acts and Regulations affecting QCAT that were assented to in the 2021-22 period were:

- *Housing Legislation Amendment Act 2021*
- *Health and Other Legislation Amendment Act 2022*
- *Justice and Other Legislation Amendment Act 2021*
- *Child Protection Reform and Other Legislation Amendment Act 2022*
- *Small Business Commissioner Act 2022*
- *Voluntary Assisted Dying Act 2021*
- *Police Powers and Responsibilities and Other Legislation Amendment Act 2021*
- *Fisheries Legislation Amendment Regulation 2021*.

### 2021-22 practice directions

There were fourteen practice directions issued in the reporting period:

- QCAT Practice Direction No. 4 of 2021 – QCAT end of year closure, effective 12 August 2021
- QCAT Practice Direction No. 6 of 2021 – Revocation of GAAT Presidential Direction No. 1 of 2009, QCAT Practice Direction No. 6 of 2011 and QCAT Practice Direction No. 5 of 2015, effective 8 September 2021. QCAT Practice Direction No. 7 of 2021 – Accessing and obtaining copies of documents, effective 8 September 2021
- QCAT Practice Direction No. 8 of 2021 – Accessing and obtaining copies of documents in guardianship proceedings, effective 8 September 2021
- QCAT Practice Direction No. 9 of 2021 – Revocation of GAAT Presidential Direction No. 1 of 2004, GAAT Presidential Direction No. 4 of 2004, GAAT Presidential Direction No. 1 of 2007 and QCAT Practice Direction No. 1 of 2015, effective 17 November 2021
- QCAT Practice Direction No. 10 of 2021 – Directions relating to discipline applications and requests under the *Legal Profession Act 2007*, effective 25 November 2021
- QCAT Practice Direction No. 1 of 2022 – COVID-19 Face Masks, effective 4 January 2022 (updated 4 March 2022)
- QCAT Practice Direction No. 2 of 2022 – COVID-19 Arrangements for minor civil dispute matters, effective 7 January 2022

- QCAT Practice Direction No. 3 of 2022 – COVID-19 arrangements for proceedings other than minor civil dispute matters and other than guardianship matters, effective 10 January 2022
- QCAT Practice Direction No. 4 of 2022 – COVID-19 arrangements for guardianship matters, effective 11 January 2022
- QCAT Practice Direction No. 5 of 2022 – Applications for review of decisions made about blue cards, effective 1 June 2022
- QCAT Practice Direction No. 6 of 2022 – Designation of QCAT Registry Closure – 26 December 2022 to 2 January 2023, effective 2 June 2022
- QCAT Practice Direction No. 7 of 2022 – Applications for review of decisions made about weapons, effective 13 June 2022
- QCAT Practice Direction No. 8 of 2022 – Applications for review of decisions made about animals, effective 24 June 2022.