

QCAT

Queensland Civil and Administrative Tribunal



Annual Report
2009–10

Communication objectives

The Queensland Civil and Administrative Tribunal's annual report summarises its financial and corporate performance for 2009-10.

Its aim is to provide an annual report that meets the needs of stakeholders and accountability requirements under the *Queensland Civil and Administrative Tribunal Act 2009*.

To find out more about the Queensland Civil and Administrative Tribunal (QCAT) visit www.qcat.qld.gov.au.

The QCAT Annual Report 2009-10 is available online at www.qcat.qld.gov.au/publications.htm.

For additional hard copies or for further information about the annual report contact QCAT on 1300 753 228 or email enquiries@qcat.qld.gov.au.

Translation

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QCAT

Queensland Civil and Administrative Tribunal

30 September 2010

The Honourable Cameron Dick MP
Attorney-General and Minister for Industrial Relations
State Law Building
Brisbane Qld 4000

Dear Attorney

I am pleased to present the Annual Report 2009-10 for the Queensland Civil and Administrative Tribunal (QCAT).

I certify that this annual report complies with the Queensland Civil and Administrative Tribunal's requirements under the *Queensland Civil and Administrative Tribunal Act 2009*.

Following machinery of government changes implemented on 1 December 2009, 23 jurisdictions, 18 of which were abolished, (Appendix 1) were transferred into QCAT. The operations of QCAT from 1 December 2009 to 30 June 2010 have been included in this report.

This report also includes the operations for the following tribunals for the period 1 July 2009 to 30 November 2009:

- Children Services Tribunal
- Commercial and Consumer Tribunal
- Guardianship and Administration Tribunal
- Misconduct Tribunal
- Racing Appeals Tribunal.

Yours sincerely



Justice Alan Wilson
President

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Vision, value, clients, goals and organisational structure

Our vision

QCAT's vision is to provide 'a fair, safe and just Queensland'.

Our values

QCAT's core values are to:

- provide excellent service
- provide quality outcomes
- be accountable
- have integrity
- have respect for people.

These values are embedded in the day to day activities of QCAT's operations.

Our goals

QCAT's success is dependent on the delivery of its goals of being:

- accessible
- fair
- economic
- informal
- quick.

Our clients

Our clients include all Queensland Government departments and agencies, representatives of the users of the tribunal and the Queensland community.

President's message



From its inception, QCAT has strived to increase access to justice for Queenslanders and to enhance the efficiency and quality of civil and administrative decision making.

QCAT's jurisdiction reaches across a remarkably diverse range of the ordinary elements of a Queenslanders' life, from childhood to the needs of the elderly, racing, retirement villages, home unit dwellers and real estate agents, minor civil disputes to large building cases, review powers for administrative decisions, and an active role in the supervision of vocational standards for doctors, lawyers, surveyors, vets, teachers, police officers, and many more.

The work of setting up the tribunal was powerfully and sadly affected by an unexpected tragedy - the death of its first president Justice Peter Dutney, on 4 September 2009. Although QCAT was still taking shape at that time, Peter had already addressed its formation, membership and future operations with the intellectual force, enthusiasm and skill for which he was renowned.

Notwithstanding that loss the work continued apace. QCAT's successes since it began owe much to the determination and devotion of QCAT's Deputy President Judge Fleur Kingham, Executive Director Mary Shortland, Principal Registrar Louise Logan and their staff - and after 1 December 2009, QCAT's new senior, permanent and part-time members and adjudicators.

From its commencement, QCAT has been busier than expected as the statistics contained in this report vividly illustrate. The workload placed upon members, adjudicators and staff has been onerous.

QCAT operates as a tribunal, not a court and the procedures it has developed are focussed on statutory requirements that it acts with as little formality and technicality, and with as much speed, as the proper consideration of the substantial merits of its matters permits.

Its members and staff work with a minimum of ceremony and formality. They also take an active and interventionist role in the conduct of proceedings to minimise delay, unnecessary expense and the distress which proceedings can cause to parties caught up in them.

QCAT sees its work as having the potential to contribute to a harmonious society and appreciates the need to inform Queenslanders about what it does and how it plans to do it. Members and senior staff have spoken to and consulted widely with many different interested groups and individuals whose understanding of these issues is important.

Central to the way QCAT has planned its new operations is the combined use of active case management to ensure matters do not languish, and alternative dispute resolution (ADR) processes. Judge Kingham has coined the term '*actively fair*' to describe how these techniques fit QCAT's statutory aims. In practice it means that QCAT members and staff are urged and expected to take responsibility for an actively fair and efficient process.

The *Queensland Civil and Administrative Act 2009* (the Act) contains an emphasis on the avoidance of prolonged, adversarial, court-like proceedings and is in favour of using ADR. From the beginning, the tribunal has trained its members in these processes and techniques, and urged and guided parties towards them.

ADR offers parties the opportunity to develop solutions for their disputes to which they contribute to and have a say. This is in contrast with the traditional adversarial process in which parties largely surrender the outcome of their proceedings to an independent arbiter, are often obliged to adopt polarised positions and sometimes express a concern that the true nature of their dispute has been warped, or diverted from its essential elements.

In taking this course, QCAT is not unaware of potential difficulties. For example, the heavier workload and extra personal and professional demands that active case management and the wide use of ADR involve for QCAT members can be challenging. Additionally, until members fully develop their skills, in what are for many, new techniques and practices, matters awaiting resolution may increase.

I am confident however that with government support and adequate resourcing these risks can be overcome and that QCAT can attain the worthy aims and goals its governing legislation calls for.

That confidence is strengthened by the remarkable figures set out in this report. QCAT is very young but it has already received thousands of matters in numbers almost two-fifths higher than those previously attracted by former tribunals. It inherited a backlog of unresolved matters in some centres but the diligence and skill of its new adjudicators, in particular, has seen a dramatic improvement in waiting times for hearings - in one large region for example, from 12 weeks to less than four.

The emphasis on ADR and in particular compulsory conferences (see page 9 for more information) has resulted in just under a 50 per cent success rate. Every resolution completed by using this approach saves significant time and other economies. Economies where they can be found have proved critical.

The unexpected and dramatic growth in the new tribunal's workload has meant that initial resources both human and material, have been no more than barely sufficient to meet the demands upon them. The tribunal's limited hearing and conference space at 259 Queen Street has also restricted its ability to list hearings and ADR proceedings in as timely as fashion as it wishes.

Adequate funding for members, adjudicators, administrative and registry staff is a priority to ensure growing demands can be met, which is why it is necessary to begin planning now for the tribunal's future accommodation needs.

While the large increase in the number of matters coming to the new tribunal has created heavy demands upon members and staff there is also of course a pleasing aspect to that growth.

It can fairly be interpreted to suggest that QCAT has been accepted by Queenslanders as a body which is readily accessible and which strives to meet its statutory objects of fairness, justice, economy, informality and speed.

**Alan Wilson J,
President**

Executive Director's message



The Queensland Civil and Administrative Tribunal (QCAT) had its first year as a 'super' tribunal, combining 18 tribunals and 23 jurisdictions, into one tribunal. This amalgamation has been one of the most important structural reforms in the Queensland justice system for 50 years. The objective behind the formation of QCAT was to improve the current system of civil and administrative justice within the existing tribunals.

The first year which commenced on 1 December 2009 has shown strong emerging trends in the minor civil disputes and guardianship jurisdictions.

The tribunal was faced with a substantial growth in applications in these jurisdictions compared to prior years placing significant demands on resources.

To improve service delivery and manage our resources optimally the tribunal is now operating with a new structure.

In the previous tribunals staff were involved in a number of activities when handling matters. However under the new QCAT structure individual areas have been established to manage the different stages of each case. The new dedicated teams including scheduling, client services and case management, have had to become specialists in their own areas, a change that has proven to be a major learning experience to all involved.

We also commenced operating a monthly 'management committee'. This committee which is chaired by QCAT's President, Justice Alan Wilson, is made up of the Deputy President, Executive Director as well as other QCAT members. It is tasked with the role of overseeing the management of QCAT's resources as well as its financial performance and it is planned that this committee will take on a further governance role in the future.

During our first seven months of operations, we have implemented strategic and business planning processes. We have produced QCAT's first Business and Operational Plans so that all staff can fully understand QCAT's key objectives and the 'Critical Success Factors' that underpin these.

QCAT's five 'Critical Success Factors' are:

- communicating with purpose and respect
- customer focus
- optimal use of resources
- learning and development
- business improvement.

These 'Critical Success Factors' have been embedded in each staff members' development plans for 2010-11.

Since QCAT's launch, training of both members and staff was, and continues to be, a number one priority.

QCAT sessional members and permanent members participated in training sessions about the new QCAT practices under the Act. These sessions were facilitated by the President, Deputy President and other members.

Registry staff also took part in a series of training sessions which included expert workshops on QCAT's jurisdictions, process improvement forums, customer service training and case management to improve their service delivery to QCAT clients and stakeholders.

Looking forward, QCAT will continue to build on the sound foundations it has already put in place over the last seven months, continuing to provide a fair and accessible justice system to the community by:

- further developing and refining the compulsory conference methodology to reduce the number of hearings and improve outcomes for individuals
- increasing the reach and frequency of its stakeholder and client engagement activities to improve access to tribunal services
- effectively managing the integration of the neighbourhood disputes jurisdiction under the Neighbourly Relations Bill and any other jurisdiction that might be transferred to QCAT
- setting up a permanent presence in North Queensland to service the regional community more effectively
- pioneering a more formal process of professional development and appraisal of the performance of tribunal members
- embracing new technology to improve QCAT's service delivery.

Mary Shortland
Executive Director

Year at a glance

Overview

	2008-09	2009-10	% change
Cases lodged	12,075	16,566	37%
Cases finalised	12,747	14,443	13%
Cases pending	3,653	7,758	112%
Mediation success rate in minor civil disputes	N/A	46%	N/A
Mediation success rate in non-minor civil disputes	N/A	68%	N/A
QCAT website page views	N/A	2,731,261	N/A
QCAT website downloads	N/A	183,506	N/A

Lists

	Lodgements			Clearance rates	
	2008-09	2009-10	% change	2008-09	2009-10
Human Rights					
Anti-discrimination	21	70	233%	48%	53%
Children	158	120	(24%)	97%	75%
Clinical research	12	7	(42%)	-	-
Guardianship	4,527	5,087	11%	86%	83%
Civil					
Building	388	239	(38%)	104%	120%
Retail shop leases	87	67	(23%)	97%	85%
Minor civil disputes	6,445	10,302	60%	120%	89%
Administration					
Occupational regulation	277	210	(24%)	112%	156%
Other including appeals	160	464	190%	86%	67%

Funding

Income

	2009-10 budget \$M	2009-10 actual \$M
Appropriations	8.4	8.4
Fees for services	1.5	1.5
TOTAL	9.9	9.9

Expenditure

	2009-10 budget \$M	2009-10 actual \$M
Salaries to staff	4.1	4.6
Member costs	3.0	3.0
Property costs	1.5	1.5
Overheads	1.3	1.2
TOTAL	9.9	10.3

Our people	2009-10
QCAT staff	110
Judicial members	2
Full-time/Part-time members	20
Sessional members	115

Income and expenditure report

\$000's	2009-10*		
	Budget	Actual	Variance
Income			
Appropriation	8,376.9	8,376.9	0.0
Fees for service	1,493.1	1,500.2	7.1
LPITAF	29.3	29.3	0.0
Operational income	9,899.3	9,906.4	7.1
Expenses			
Staff employment costs	4,107.9	4,561.6	(453.7)
Member wage costs	2,996.1	3,022.4	(26.3)
Property costs	1,522.3	1,531.7	(9.4)
Overheads	1,273.0	1,221.1	51.9
Total operating expenses	9,899.3	10,336.8	(437.5)
Operational position	0.0	(430.4)	(430.4)
Projects and initiatives			
Project funding	1,006.7	1,006.7	0.0
Project expenses	(1,006.7)	(54.2)	952.5
Project position	0.0	952.5	952.5
(Over)/under budget	0.0	522.1	522.1

* Note: QCAT commenced operations on 1 December 2009

QCAT's overall income for the period showed a surplus of \$7,100.

Year to date QCAT exceeded budget at the operational level by \$430,400 with the majority of this overspend incurred in registry staff employment costs.

There were significant increases in applications in both the minor civil dispute and guardianship jurisdictions. This resulted in additional staff being recruited in Client Services and Operations Support to deal with the additional workload, leading to an over spend of \$453,700 for the period.

Member employment costs were \$26,300 over budget for the period and property costs were \$9,400 over budget. \$51,900 of savings were realised in overheads with savings in office costs contributing the majority of this under spend.

QCAT received \$1.007m for post implementation initiatives which covered a broad range of projects aimed at improving efficiency across the tribunal.

A number of smaller projects were completed within the period accounting for the \$54,200 expenditure in the accounts.

Three major projects that have been identified are:

- a document scanning solution
- an e-search facility for the public to access case information including information on the new neighbourhood disputes resolution jurisdiction
- remote digital recording capability for the registry to maximise on available resources.

QCAT has undertaken feasibility studies for these projects and is planning a staged implementation in 2010-11 using the project funds allocated for these initiatives.

Non-financial performance

Tomorrow's Queensland Ambitions

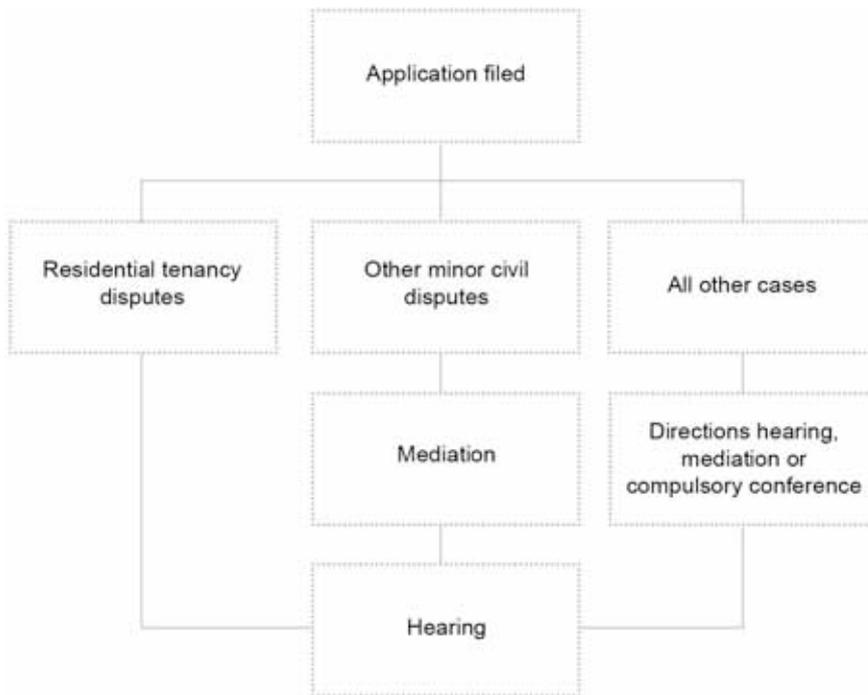
The guiding principle that QCAT operates under is the Towards Q2 ambition of:

- Fair - supporting safe and caring communities.

Outputs	Output objectives	Principal activities
Court and tribunal services	Support safe and secure communities through the resolution of civil and criminal matters and improve services to vulnerable people.	Court, tribunal and prosecution services; coronial services, and justice models for early intervention and diversionary strategies.
Human rights protection services	Safeguard vulnerable people through the protection of the rights and interests of adults with impaired decision making capacity, children and victims of crime.	Guardianship and systems advocacy; review of decision made about children and young people in care; and compensation to victims of crime.
Policy, legislation and legal services	Provide justice policy advice, legislative development and law reform services and protect the community through the regulation of legal practitioners.	Leadership role in law reform; independent legal services for public sector agencies and the state; justice policy advice and legislative development; and model litigant for the state.
Community justice services	Promote community safety, security, fairness and equity by protecting people's identity, property and rights and providing community justice services.	Registration and certification services for life events; justices of the peace programs; a penalties enforcement framework; and non-adversarial conflict resolution methods and local justice solutions.

How we resolve cases

Application to hearing



Mediation processes administered by QCAT prior to an application being made

In some cases a dispute resolution process is administered by QCAT before a matter is within the QCAT jurisdiction.

For example under the *Retail Shop Leases Act 1994* and the *Retirement Villages Act 1999* clients may apply to QCAT for mediation prior to an application being referred or made to QCAT.

All other applications

For all other applications the process begins with the filing of an application. To help clarify the issues and resolve the dispute many matters are then referred to an alternative dispute resolution process such as mediation or a compulsory conference.

Some matters are not suitable for an alternative dispute resolution process and proceed directly to a hearing.

Compulsory conferences

One of the defining features of QCAT's jurisdiction is the use of compulsory conferences. For the first time in Queensland parties are able to access a process which is a hybrid of mediation and case management.

Chaired by a member of the tribunal a compulsory conference enables the parties to discuss the issues in dispute freely and frankly in a neutral environment. They are able to resolve their dispute with the assistance but not adjudicative intervention of the tribunal.

At times the tribunal has met some resistance from parties who thought they had exhausted their capacity to negotiate and were simply interested in receiving a decision from an external body.

However through persistence and education the tribunal is effecting a change in the culture of litigation in its jurisdiction. Parties now appreciate the opportunity to discuss their concerns in a structured but private environment with an experienced member at the same level as the final decision maker (if the matter goes to a hearing).

The Act gives the tribunal extensive powers to make directions if the parties are unable to resolve their dispute at a compulsory conference. Members use these powers to focus the parties' attention on any insufficiencies in the evidence, how their evidence will be presented and how the hearing can be undertaken as quickly and economically as possible.

These directions, which are tailored to the particular dispute provide a number of advantages.

The eventual hearing often takes a shorter period of time and sometimes the matter can be determined 'on the papers' - that is, without a formal hearing.

Compulsory conferences and the directions made (if necessary) after them also enable the tribunal to fulfil the very important duty it has under section 29 of the Act - to ensure that each party understands the practise and processes of the tribunal, the nature of the assertions made against it, the views of the parties and their witnesses and the effect of any decision of the tribunal.

Compulsory conferences are also useful in ensuring that parties from non-English speaking backgrounds, with cultural differences, impaired capacity or a physical disability have proper access to and understanding of the tribunal and its functions.

Since QCAT's commencement 696 compulsory conferences have been conducted. Of those, 316 which represents 45 per cent have concluded successfully.

This initial statistic indicates that as parties' understanding of compulsory conference increases

the success rates may improve to a figure in excess of 50 per cent.

Legal representation

Parties are only allowed legal representation at a proceeding if the tribunal gives them leave or where a party is a child or a person with impaired capacity or the proceedings relate to or involve a review of disciplinary action.

Hearings

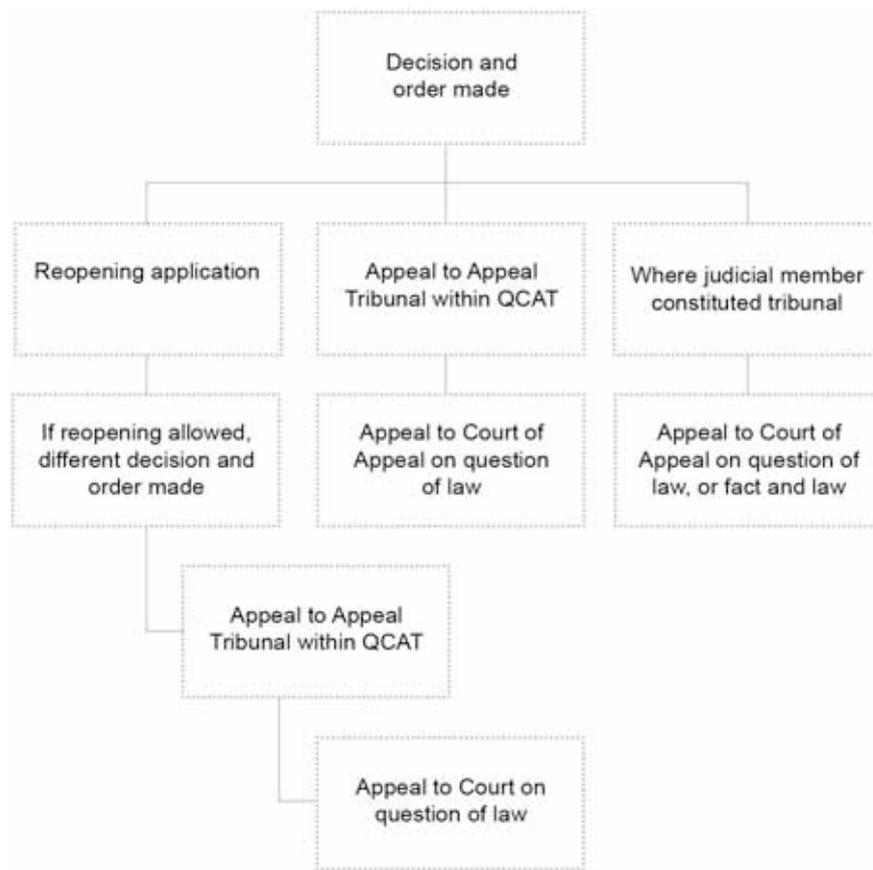
Hearings involve the parties appearing before an adjudicator or member or a panel of up to three members.

Parties may call witnesses, give evidence, ask questions of witnesses and make submissions. Hearings can take from an hour or two to a number of days depending on the complexity of the issues.

Decisions

After the hearing the member will either deliver a decision orally or write a decision and provide it to all parties as soon as practicable.

Appeals and re-openings



In limited matters a party to a proceeding can apply for the proceeding to be reopened. If the proceeding is reopened the tribunal can make a different decision from the previous decision.

In some circumstances a party to a proceeding may appeal to the Appeal Tribunal within QCAT on a question of law or a combination of law and fact. The Appeal Tribunal is constituted by one or more judicial members or in appropriate cases a judicial member with one, two or three suitably qualified members.

Where a judicial member constituted the tribunal QCAT decisions can be appealed to the Queensland Court of Appeal on a question of law or mixed fact and law and with the leave of the Court of Appeal.

A party may appeal to the Queensland Court of Appeal against a decision of the QCAT Appeal Tribunal on a question of law and with leave of the Court of Appeal.

Presidential and member profiles

Justice Alan Wilson, President



Justice Alan Wilson was admitted as a barrister in 1982. In his early career he developed a specialist practice in wills, probate and succession and equity. Later he undertook a great deal of mediation work and is an active proponent of its benefits.

Justice Wilson was appointed Senior Counsel in 1999 and to the District Court of Queensland on 24 May 2001 at Southport. He was also appointed a Planning and Environment Court Judge in 2001 and a Childrens Court Judge in 2003.

He transferred to Brisbane in January 2004 and managed the lists of the Planning and Environment Court from 2004 to 2008.

Justice Wilson was simultaneously appointed to the Supreme Court and as the inaugural President of QCAT in October 2009.

Judge Fleur Kingham, Deputy President



Judge Fleur Kingham is a judge of the District Court of Queensland, the Childrens Court of Queensland and the Planning and Environment Court of Queensland. Prior to those appointments in 2006 she was the Deputy President of the Land and Resources Tribunal of Queensland.

Judge Kingham is a mediator with experience in multi-party and public interest disputes including indigenous land and governance issues. She practised in commercial litigation and environmental law, has advised governments on policy and legislative developments in environmental and resources law and held academic positions in related fields.

Senior member profiles

Kerrie O'Callaghan, Senior Member



Ms O'Callaghan has been involved in the legal profession in numerous roles since her admission as a solicitor in 1985. She has been a partner in a national law firm and practised principally in the areas of construction and commercial litigation. She was a member of the Queensland Building Tribunal from 1993 to 2002.

Before being appointed to QCAT Ms O'Callaghan was a member of the Guardianship and Administration Tribunal and was the in-house lawyer in Queensland for the construction company Boulderstone Qld Pty Ltd.

Richard Oliver, Senior Member



Formerly a barrister practicing in Brisbane Mr Oliver joined QCAT on its commencement.

Mr Oliver graduated from the University of Queensland in 1979 with a Bachelor of Law degree

and after a short period as a judge's associate he commenced practice as a barrister in early 1980. He has been in private practice since that time apart from between 1987 and 1990 when he was a principal of a regional law firm.

Mr Oliver has experience across a broad range of jurisdictions with particular experience in civil litigation, building matters and administrative reviews. He was a sessional tribunal member in the original Queensland Building Tribunal between 1994 and 2001 and was appointed as a sessional member to the former Commercial and Consumer Tribunal from February 2008 until the commencement of QCAT.

Prior to his appointment to QCAT he had a busy practice in insurance law, personal injury and commercial and estate litigation. This resulted in participation in numerous mediations and compulsory conferences.

He is an accredited mediator with the Supreme Court and is well equipped to help develop QCAT's alternate dispute resolution procedures and assist members and staff in this area.

Susan Booth, Senior Member



Ms Booth was admitted as a solicitor in 1990 and worked in both private practice and senior government positions for over 15 years. Her expertise is in industrial, discrimination and administrative law. Her practice included significant emphasis on alternative dispute resolution.

Before being appointed to QCAT Ms Booth was Queensland's Anti-Discrimination Commissioner responsible for the State's human rights laws and the former Queensland Anti-Discrimination Tribunal. She was also chair of the national peak human rights body the Australian Council of Human Rights Agencies.

At QCAT, Ms Booth has responsibility for the administrative and disciplinary lists and she chairs the QCAT Alternative dispute resolution committee.

Clare Endicott, Senior Member



Ms Endicott graduated from the University of Queensland with an Arts degree in 1975 and with a law degree in 1977. She was admitted as a solicitor in 1978 and practised as a litigation solicitor until 2006.

She was a partner in Brisbane legal firms for almost 25 years and completed her Master of Law degree in 1987.

In 2005 Ms Endicott became a part time member of the Guardianship and Administration Tribunal and in April 2006 she was appointed the Deputy President of that tribunal.

At QCAT Ms Endicott has responsibility for the Human Rights Division.

Registry overview



The QCAT registry is led by Louise Logan, Principal Registrar. More than 100 staff work at the QCAT registry and all are based at 259 Queen Street Brisbane.

Staff within the registry work with QCAT members and other staff within Magistrates Courts registries across Queensland to deliver tribunal services.

The establishment of the registry

The establishment of QCAT on 1 December 2009 provided an opportunity to transform the delivery of registry services in Queensland.

A significant amount of work was undertaken to design a registry structure that would support the development of a cohesive organisation able to deliver high quality registry services to a large number of clients.

A number of the tribunals amalgamated into QCAT were supported by registries already co-located at 259 Queen Street. Prior to 1 December 2009 each registry operated independently from the others delivering a similar range of functions to support the work of the respective tribunals.

The design of a new registry structure for QCAT followed consultation with the staff of the existing registries and an analysis of the range of functions needed to be delivered by the new QCAT registry.

The design provided the opportunity to centralise a number of key registry functions to align the delivery of registry functions with the vision for QCAT of a tribunal that is accessible, fair, just, economical, informal and quick.

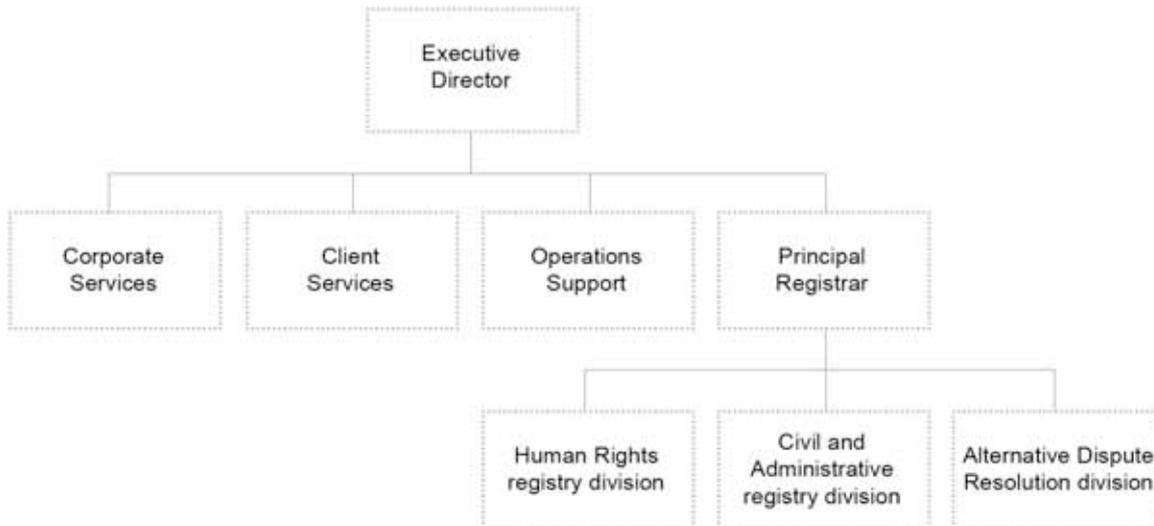
Those areas identified for centralisation included frontline client service activities, scheduling of hearings and providing hearing support activities, corporate support and alternative dispute resolution. The design also recognised the need for dedicated case management areas in the Human Rights and Civil, Administrative and Disciplinary Divisions.

Staff from the Consumer and Commercial Tribunal, Guardianship and Administration Tribunal, Children Services Tribunal, Anti-discrimination Tribunal, Retail Shop Leases Tribunal and the Small Claims Tribunal transitioned into the new QCAT registry on 1 December 2009.

This provided the QCAT registry with the enormous advantage of being staffed from the very beginning with people experienced in the delivery of tribunal and registry services and experts in the case management of the wide variety of jurisdictions amalgamated into QCAT. The scope of the change however required staff to learn new processes, functions and jurisdictions in a new larger organisational structure.

QCAT has been fortunate to have a registry team made up of dedicated, enthusiastic and professional staff who have risen to the challenge of implementing the new QCAT registry structure.

In the coming year we will consolidate the registry structure and continue to work to improve the services provided by the registry.



The QCAT registry structure

The QCAT registry structure comprises:

- Corporate Services - human resources, information technology, finance, communications and records management activities
- Client Services - frontline services to users of QCAT including enquiries, registration and processing of applications and case management of applications in the minor civil disputes jurisdiction
- Operations Support - scheduling of hearings and conducting hearing support activities
- Human Rights registry division for the case management of applications in the areas of guardianship and administration for adults with impaired capacity, applications relating to children and applications in the anti-discrimination jurisdiction
- Civil, Administrative and Disciplinary registry division for the case management of applications in the areas of civil applications (excluding the minor civil disputes jurisdiction), the general administrative review jurisdiction and the disciplinary jurisdictions
- Alternative Dispute Resolution (ADR) division - coordinating the delivery of ADR functions and performing ADR activities.

Minor civil disputes overview

Minor civil disputes (MCD) are fully defined in the dictionary to the Act and include claims:

- (a) for debts or liquidated demand
- (b) arising out of a contract between a trader and consumer
- (c) for property damage caused by the use of a motor vehicle
- (d) for repairs to a defect in a motor vehicle
- (e) relating to disputes under the *Dividing Fences Act 1953*
- (f) in respect of a tenancy matter.

With the commencement of QCAT the jurisdictional limit for these types of claims increased from \$7,500 to \$25,000.

Our cases

As a consequence of the value increase in this jurisdiction and QCAT's accessibility there has been an increase in the number of filed applications. This increase has placed considerable pressure on staffing and physical resources for example, the availability of hearing rooms.

The bulk of the matters heard in the MCD jurisdiction relate to residential tenancy matters. These matters were formerly heard in the Small Claims Tribunal.

Contrary to the practice in the Small Claims Tribunal QCAT must give reasons when it makes a final decision. This means that the parties know at the conclusion of the hearing why the tribunal came to a particular decision which helps to ensure that they understand the process that has taken place.

A great deal of attention and resources have been focused on improving the hearing waiting times for these matters. In some cases the waiting time when QCAT began was from three to four months and this has now been reduced to four to six weeks.

Our clients

Clients coming to the tribunal to resolve MCDs represent all of society's individual and business interests. The greater part of the work involves residential tenancy matters but the full range of personal financial disputes arises.

Our focus is on delivering a fast resolution, in particular for urgent tenancy matters.

Our people

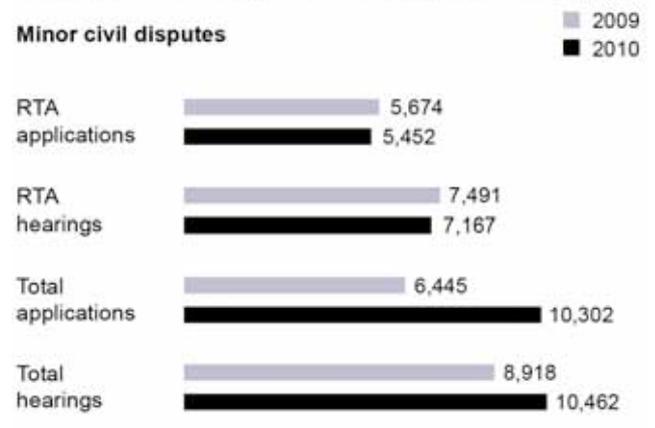
In south-east Queensland, MCD hearings are conducted by QCAT's own adjudicators appointed under the Act and in other regions by Magistrates, who are QCAT members for the purposes of conducting MCD hearings.

The Magistrates and their staff have made a significant and valuable contribution to QCAT's work in this jurisdiction. They have quickly become familiar with QCAT's new procedures and the Magistrates have responded to the new requirement for reasons in every case with diligence and skill. The Chief Magistrate Judge Butler, his Magistrates and staff have been supportive in helping QCAT achieve speed and efficiency in disposing of the thousands of matters in this extremely busy jurisdiction.

Publicising MCD work

QCAT members and adjudicators have attended a number of forums conducted by interest groups such as the Residential Tenancies Authority, Home Owners Association, Real Estate Institute of Queensland, the Tenants' Union of Queensland and tenancy groups. Their feedback on QCAT practices has been sought and encouraged as we continue to refine our service in this new, very large arena.

Minor civil disputes year on year comparison



Case study

In a recent residential tenancy case the President, in QCAT's appellate jurisdiction, had to consider section 291(3) of the Residential Tenancies and Rooming Accommodation Act 2008. This section provides that a lessor cannot give a notice to leave under that section if to do so would constitute "taking retaliatory conduct".

The President observed that there did not appear to be any reported decisions on what constituted "retaliatory conduct" either in Queensland, or in any other state. A determination of what conduct could be said to be retaliatory was therefore needed.

It was found that if a tenant takes action to legitimately protect or enforce their rights under the rental arrangement or the legislation, and if the lessor's subsequent action (eg, by service of a Notice to Leave) is responsive to such action and in the circumstances is unreasonable, excessive or vindictive, then this may amount to retaliatory conduct.

This decision is a helpful guide to all stakeholders involved in tenancy disputes where issues of retaliatory conduct are raised. It is also of assistance to both adjudicators and members when applying section 291 of the Act in hearings.

Civil, Administrative and Disciplinary Division



The Civil, Administrative and Disciplinary (CAD) Division is led by Charmaine Malam and manages more than 200 pieces of legislation and applications under a wide range of lists including:

- appeals
- body corporate and community management
- child care
- commercial building
- community services
- disability services
- domestic building disputes
- fisheries
- independent assessor - *Prostitution Act 1999*
- liquor reviews
- local government levee bank
- manufactured homes
- minor civil disputes
- occupational regulation and disciplinary lists across areas including teachers, architects, plumbers and drainers, doctors, nurses, vets, property agents, motor dealers, misconduct and legal practice
- residential services
- retail shop leases
- retirement villages
- right to information
- taxation
- transport
- victims of crime
- weapons.

Our cases

Cases before the tribunal include minor civil disputes, domestic and commercial building disputes, reviews of decisions of government agencies and professional disciplinary matters. Building disputes and professional disciplinary disputes make up the majority of cases dealt with by the registry.

Within this division, 118 appeals and eight applications for re-openings were processed. The avenue of appeal enshrined in section 142 of the Act provides a safeguard for parties. It is an important improvement of the practice of many of the previous tribunals which either lacked an appeal mechanism or contained only unwieldy and expensive appeal mechanisms which parties were reluctant to pursue.

The Health Regulation List overseen by our Deputy President saw major change this year with the introduction of the national standardised scheme for disciplinary proceedings against doctors, nurses and other health professionals.

The implementation of the *Health Practitioners Regulation National Law 2009* saw great reform in introducing a national registration and accreditation scheme. This scheme which operates across state borders in Australia aims to protect the public by ensuring competence and ethics for practitioners.

Our clients

The CAD team works to create and sustain positive working relationships with a range of stakeholder groups and individual clients. Client groups range from government entities to individuals affected by building disputes or retirement village disputes. The CAD team works to meet the needs of these client groups by providing helpful information and advice about registry processes and procedures.

Our people

The team consists of the Registrar, Deputy Registrar and two Principal Case Managers who each supervise smaller teams of six case managers. Our case managers prepare matters for resolution by the tribunal across the various lists.

Our team brings a wealth of experience to the tribunal. Many staff have years of tribunal experience having worked in the Commercial and Consumer Tribunal, Retail Shop Leases Tribunal and the Racing Appeals Tribunal. Some staff have also worked within the Magistrates Court service. A number of our staff are working towards formal qualifications in law or other relevant disciplines.

Our team focuses on continuous improvement and has been able to identify and implement many opportunities to streamline and improve services to both internal and external clients.

Year in review

CAD staff engaged with the following key stakeholders:

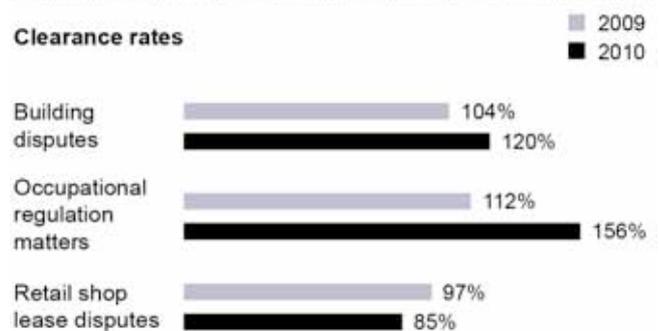
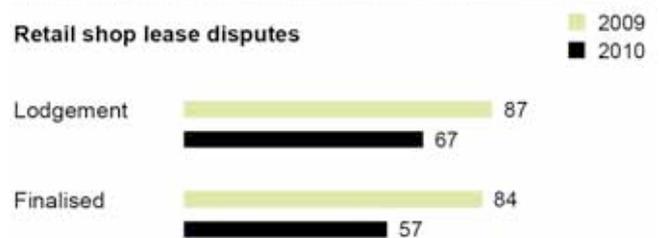
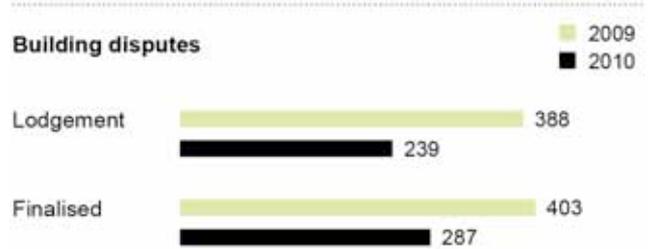
- Department of Environment and Resource Management
- Industry Licensing Unit at the Department of Employment, Economic Development and Innovation
- Office of Fair Trading
- Queensland Tenants' Union Inc
- Racing Queensland
- Victim Assist Queensland.

The team enjoyed sharing challenges and achievements with visiting delegates from tribunals in South Africa and Western Australia. These opportunities are an ideal way to learn collaboratively from the experience of our colleagues in other jurisdictions.

As QCAT evolves to meet the expectations and legal needs of the community new jurisdictions are added to the tribunal's case load for example the *Health Practitioners Regulation National Law 2009*. Our team spent considerable time reviewing and responding to the Neighbourhood Disputes Resolution Bill 2009 which is expected to be introduced into QCAT in 2011.

A number of process improvements have been implemented by CAD staff including:

- providing easy to understand information to clients about their rights and responsibilities in coming before the tribunal
- development of suggested draft standard directions to improve processing times in the resolution of matters and to maximise the use of members and adjudicator's time spent in hearings or other tribunal listed events
- working collaboratively with colleagues in Client Services to process minor civil dispute default judgments
- documenting processes to encourage efficient work practices within the CAD division
- streamlining the case management procedures for minor and more complex building disputes to assist parties to a timely resolution
- mapping obligations imposed by the more than 200 pieces of enabling legislation that impacts on QCAT service delivery
- attending regular meetings with the senior members supervising various lists to collaboratively improve service delivery to clients
- finalising a large number of callovers and clearing a significant back log of matters which were outstanding at the commencement of QCAT.



Case study

Homeowners had lodged a domestic building application with a wide range of disputes in the former Commercial and Consumer Tribunal (the CCT) in September 2007. All building works had stopped.

A defence and counter claim were filed by the builder denying the claim who also counter claimed for a number of other things including monies lost on the project.

A mediation took place in the CCT but it was unsuccessful. The matter then proceeded through a number of directions hearings where various orders were made for the exchange of evidence. There was an unfortunate history of delays with inspections and delivery of evidence.

The last order made by the CCT was in September 2009 again directing the exchange of experts reports, amended claim, counter claim and statements of evidence. On 1 December 2009 the CCT was amalgamated into QCAT and the matter was reviewed.

All parties were invited to attend an experts conclave and a compulsory conference. The experts conclave was held in April 2010 and a joint report was produced by the experts which identified rectification works that were required.

The compulsory conference was held less than seven days after the production of the report and a settlement was reached between the parties.

The settlement required the experts to produce a scope of works for the agreed rectification work. The builder was then required to carry out the rectification works within a fixed period of time and to the satisfaction of the Queensland Building Services Authority.

These new practices and procedures show the effective use and success in QCAT of experts conclaves and compulsory conferences to resolve building disputes quickly and efficiently.

Human Rights Division



The Human Rights Division (HuRD) led by David Bancroft case manages applications under the following lists:

- anti-discrimination
- children
- education
- guardianship.

Our cases

The large majority of applications managed by HuRD fall within the guardianship list. Since the inception of QCAT there has been a significant increase in the overall number of guardianship cases compared with previous years. This trend is reflective of the ageing population and the community's increasing awareness of formal arrangements to protect their loved one's rights.

To meet the increase in case numbers, streamlined case management processes have been developed for each list within the division. The biggest improvement has been the introduction of the use of pre-hearing processes such as directions hearings and compulsory conferences to bring disputing parties face to face as soon as possible.

Our clients

HuRD provides registry services to many of society's most vulnerable and disadvantaged people. These include children, adults with impaired capacity and people alleging discrimination, harassment, vilification and victimisation.

Families, carers and support people from a person's community of care are often actively involved in the matters handled by the division. There are also a

number of government and non-government organisations which participate in tribunal hearings. The HuRD team has made a concerted effort to meet the needs of all of these client groups with regular meetings and attendance at forums.

Our people

HuRD's aim is to ensure our staff can meet the important requirements of our clients whose cases are often complex, emotive and involve a large number of parties.

The majority of the staff within HuRD have come from the former Guardianship and Administration Tribunal. We have also integrated the expertise of team members from the Anti-discrimination Tribunal and Children Services Tribunal. The staff within the division are supported by both formal and informal qualifications and have many years of experience in human rights cases and in preparing cases for successful hearings.

Year in review

A number of process improvements have been implemented by HuRD staff including:

- participating in a program of community education talks
- holding regular meetings with stakeholders to identify and respond to client needs
- developing procedures to enhance media access to Human Rights Division files
- increasing regional sittings across all lists
- developing relevant and useful frequently asked questions for lists in the divisions
- reviewing QCAT forms relating to the division to improve efficiencies and completion rates
- developing consistent practices across all lists to facilitate early resolution of disputes by referral to compulsory conferences, mediation and directions hearings
- implementing a new case management system with ongoing enhancements to meet our client's growing needs
- improving efficiency by working with the tribunal to increase the categories of cases that can be finalised by on the paper hearings through the development of an administrative practice
- developing and refining of processes to respond to the significant increase in guardianship list and anti-discrimination list cases.

Anti-discrimination matters ■ 2009
■ 2010

Lodgement 21
70

Finalised 10
37

Guardianship matters ■ 2009
■ 2010

Lodgement 4,527
5,087

Finalised 3,896
4,212

Clearance rates ■ 2009
■ 2010

Anti-discrimination matters 48%
53%

Childrens matters 97%
75%

Guardianship matters 86%
83%

Childrens matters ■ 2009
■ 2010

Lodgement 158
120

Finalised 153
90

Type and number of limitation orders made 1 December 2009 – 30 June 2010

Limitation order type	Number made
Number of adults	3253
Adult evidence order	2
Closure order	0
Non-publication order	1
Confidentiality order	3
Total applications received	23

Guardians for restrictive practices finalised applications 1 December 2009 – 30 June 2010

	Guardianship order made	Guardianship order renewed and varied	Dismissed	Deceased	Administrative closure	Withdrawn at hearing	Total
Guardianship for restrictive practice	149	0	25	0	1	21	196
Review of guardianship for restrictive practice	52	0	0	0	0	0	52

Containment, seclusion and other restrictive practices approvals made 1 December 2009 – 30 June 2010

	Approved	Dismissed	Deceased	Withdrawn/ administrative closure	Total
Containment	9	3	0	6	18
Review of containment	6	0	0	1	7
Seclusion	13	1	0	3	17
Review of seclusion	9	0	0	1	10
Application for another restrictive practice	14	0	0	5	19
Review of application for another restrictive practice	8	0	0	0	8

Positive behaviour support plan compliance checks made 1 December 2009 – 30 June 2010

Plans checked	Compliant	Not compliant
32	31	1

Case study

In September 2009, a retired banker aged 90 appointed his wife and son as his attorneys under an Enduring Power of Attorney (EPA). In December 2009, the man was hospitalised and underwent surgery, following which he remained confused and testing revealed significant cognitive impairment. He did not regain his former level of cognitive functioning and he was assessed as requiring high level residential care.

His granddaughter applied to QCAT for the appointment of a guardian and administrator. The tribunal had to consider whether the original EPA was valid. Evidence from the man's doctor supported the finding that he had been mentally agile at the time the EPA was made and he had capacity before his illness hospitalised him. The certifying witness to the EPA had known the man for many years and gave evidence that he had read through the EPA carefully. In addition, he had discussed aspects of the document including when the Power took effect and he specifically wanted the attorneys to have the power to make decisions about his personal matters.

The adult's granddaughter contended that her grandfather had impaired capacity prior to September 2009 referring to the adult's inability to maintain his taxation and property records during the past few years. The tribunal determined that the EPA was valid and noted that a lack of attention to his taxation and property affairs was not of itself satisfactory evidence of impaired capacity. Also there was specific evidence from the certifying witness and the man's doctor that the adult had had capacity for the matter in September 2009.

The applications for appointment of a guardian and administrator were dismissed as the attorneys were willing to continue to act as decision makers for the adult.

Working with our stakeholders

We have continued educating and working collaboratively with a wide range of stakeholders since QCAT's launch.

Our stakeholder community includes government departments, statutory bodies, the legal community and a large number of support and advocacy groups.

We aim to keep them informed of our practices, procedures and decisions via regular meetings and training sessions. We also encourage their active involvement in QCAT proceedings.

Our expert team is involved in participating in stakeholder managed forums, training sessions, symposiums and publications. These activities assist in building an improved understanding of each other's objectives and higher levels of service to both our clients. They are delivered throughout the state via our registry staff, and members of the tribunal.

Feedback from our stakeholders strongly shows that our efforts to engage with them is well received.

They feel that during proceedings our members listen carefully to all parties' views, act professionally and are fully competent in their knowledge and skills. Overall they believe that the tribunal resolves disputes or assists in moving a dispute to resolution at a future date and all parties are treated fairly and equitably.

They have also found that interacting with the registry is a positive experience with service delivery rating well particularly in relation to the quality of information provided, the timeframe in which it is provided and staff knowledge and skills.

Overall our stakeholders are satisfied with the support and advice received from QCAT and the performance of our registry staff and members. They also overwhelmingly believe that QCAT is achieving its objectives of being accessible, fair, just, economic, informal and quick.

Supreme Court of Queensland Library

The Supreme Court of Queensland Library (the Library) is the lead information agency for the Queensland courts and judiciary. It serves the Supreme, District and Magistrates Courts and QCAT.

Since QCAT's launch, the Library has provided a range of information services to tribunal members including:

- legal reference and document delivery service via telephone, facsimile and email
- research services
- access to more than 150 databases and an estimated 60,000 individual full-text titles via the Judicial Virtual Library intranet
- consolidated and discounted subscription purchasing for the QCAT member library
- regular current awareness services via email subscription including the Judicial Current Awareness service and the Queensland Legal Updater bulletin.

Since 1 December 2009, the Library has published 305 QCAT decisions via the Library website. The availability of decisions is valuable to QCAT members, clients and the legal community.

Risk management

QCAT complies with the Department of Justice and Attorney-General's (the department's) Risk Management Policy which was endorsed by the Audit and Risk Management Committee in 2008.

Governance – management and structure

Tribunal member appointments

Appointment of the President

The President must be a Supreme Court judge who is recommended for appointment by the Attorney-General and Minister for Industrial Relations (the Minister) after consultation with the Chief Justice. The President holds office for the period of at least three years but not more than five years, stated in the President's instrument of appointment.

Appointment of the Deputy President

The Deputy President must be a District Court judge who is recommended for appointment by the Minister after consultation with the Chief Judge. Subject to the Act the Deputy President holds office for the period of at least three years but not more than five years, stated in the Deputy President's instrument of appointment.

Appointment of senior members and ordinary members

As at the 30 June 2010 QCAT has four appointed senior members and ten ordinary members. Under the Act senior members and ordinary members are appointed as required for the proper functioning of the tribunal. A senior member or ordinary member must be recommended for appointment by the Minister after consultation with the President. The Minister must advertise for applications from

appropriately qualified persons to be considered for selection.

A person is eligible for appointment as a senior member only if the person:

- a) is an Australian lawyer of at least eight years standing, or
- b) has in the Minister's opinion extensive knowledge, expertise or experience relating to a class of matter for which functions may be exercised by the tribunal.

A person is eligible for appointment as an ordinary member only if the person:

- (a) is an Australian lawyer of at least six years standing, or
- (b) has in the Minister's opinion special knowledge, expertise or experience relating to a class of matter for which functions may be exercised by the tribunal.

In recommending persons for appointment as members, the Minister must have regard to the following:

- a) the need for balanced gender representation in the membership of the tribunal
- b) the need for membership of the tribunal to include Aboriginal people and Torres Strait Islanders
- c) the need for the membership of the tribunal to reflect the social and cultural diversity of the general community
- d) the range of knowledge, expertise and experience of members of the tribunal.

A senior member or ordinary member holds office for the period of at least three years but not more than five years, stated in the member's instrument of appointment. A person appointed as a senior member or ordinary member may be reappointed whether or not the vacancy in the member's office has been advertised. A senior member or ordinary member may be appointed on a full-time, part-time or on sessional basis.

Sessional members

As at the 30 June 2010 QCAT has 115 appointed sessional members. Sessional members are ordinary members and meet the eligibility requirements for ordinary members outlined above.

Adjudicators

As at 30 June 2010 QCAT has six appointed adjudicators. Under the Act adjudicators are appointed as required for the proper functioning of the tribunal. An adjudicator must be appointed by the Governor in Council on recommendation from the Minister after consultation with the President.

When selecting a person for recommendation for appointment as an adjudicator, the Minister must advertise for applications from appropriately qualified persons to be considered for selection.

A person is eligible for appointment as an adjudicator only if the person is an Australian lawyer of at least 5 years standing. An adjudicator holds office for the period of at least three years but not more than five years, stated in the adjudicator's instrument of appointment. A person appointed as an adjudicator may be reappointed whether or not the vacancy in the adjudicator's office has been advertised. An adjudicator may be appointed on a full-time or part-time basis.

Member appointments – see Appendix 2.

Executive management appointments

QCAT's Executive Management Group manages the strategic direction of QCAT. It is responsible for the development of long-term business strategies whilst maintaining a focus on clients and the delivery of a high level of customer service.

Related entities

QCAT commenced operations on the 1 December 2009 following the amalgamation of 18 tribunals.

The following six amalgamated tribunals were major entities with budgetary allocations:

- Children Services Tribunal
- Commercial and Consumer Tribunal
- Guardianship and Administrative Tribunal
- Misconduct Tribunals
- Racing Appeals Tribunal.
- Anti-discrimination Tribunal

An additional funding provision of \$800,000 was secured relating to minor civil dispute matters.

Boards and committees

Management committee

The Management committee was created under the direction of the President Justice Alan Wilson. This committee consists of the:

- President (chairperson)
- Deputy President
- Executive Director
- one senior member
- two ordinary members
- Principal Registrar
- senior finance officer.

The committee meets on a monthly basis to review financial statements, activity reports, member analysis reports and evaluate key initiatives.

Forms committee

The Forms committee meets on a monthly basis and consists of one senior member and management staff within QCAT. This committee is responsible for the review, update and creation of forms for QCAT applications.

Rules committee

Under section 223 of the Act, the President must establish a Rules committee consisting of the following members:

- the President (chairperson)
- the Deputy President
- a senior member or ordinary member who is appointed on a full-time basis
- a member who is not an Australian lawyer
- other members or adjudicators the President considers appropriate.

This committee meets on monthly basis and its function includes:

- developing and reviewing the rules under the Act
- approving forms for use under the Act
- the other functions conferred on the Rules committee under the Act or an enabling Act that is an Act.

The Rules committee may conduct its business and proceedings at meetings in the way it decides. However, the chairperson has a deliberative vote and in the event of an equality of votes a casting vote.

Innovation committee

The objectives of the Innovative committee are to:

- identify and evaluate opportunities for improvements to service delivery within the registry and the tribunal
- identify future opportunities for budget proposals.

The committee is responsible for encouraging staff to submit service enhancement proposals that relate either to:

- new initiatives
- refining existing practices
- redefining existing practices
- realignment of resources.

The committee is comprised of the QCAT management team and one staff member from each section of the tribunal.

Alternative dispute resolution committee

The Alternative dispute resolution (ADR) committee consists of the following members:

- the President
- the Deputy President
- two senior members

- one ordinary member
- Principal Registrar
- ADR Manager.

Its work focuses on:

- meeting the statutory demand in s4(b) of the Act that the tribunal encourage the early and economical resolution of disputes including if appropriate through ADR processes
- training members in ADR and developing their skills and knowledge on its best use in QCAT's diverse jurisdictions
- the more effective use of ADR throughout QCAT for example, by increasing the early resolution of matters and avoiding the need for final adjudication through the use of compulsory conferences
- developing internal training and accreditation programmes for members.

Public Sector Ethics Act 1994

The department's code of conduct provides a clear understanding of the standard of conduct required to be achieved in performing the role as a public official. This is based upon the ethics identified in the *Public Sector Ethics Act 1994* which are: respect for persons, integrity, respect for the law and system of government, diligence, economy and efficiency.

Staff are made aware of the code of conduct as part of the QCAT induction program and on an annual basis.

Whistleblowers Protection Act 1994

The department has a policy to assist staff wishing to make a public interest disclosure under the *Whistleblowers Protection Act 1994*.

No public interest disclosures were made by QCAT staff in 2009-2010.

Workforce planning, attraction and retention

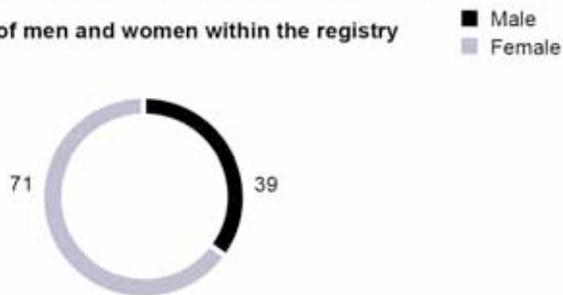
Workforce profile

As at 30 June 2010 QCAT has an establishment of 110 employees employed by the registry.

Of these 110 staff, 15 are employed on part time arrangements, two are full time trainees and three are on external secondments. Since the commencement of QCAT on 1 December 2009 there has been a 2 per cent separation rate.

The graph below depicts the ratio of men and women within the registry.

Ratio of men and women within the registry



Statutory appointments include one President, one Deputy President, four senior members, 10 ordinary members, six adjudicators and 115 sessional members. Of these appointments five are on a part time arrangement.

Workforce planning

QCAT is committed to the attraction and retention of staff. This is achieved by promoting work life balance strategies.

The management ensure staff are supported and motivated through appropriate communication, negotiation and consultation skills. Coaching and mentoring are essential to the development of the workforce and the retention of quality staff.

QCAT has a representative associated with the department's Work Life Balance Strategy Committee. This committee is dedicated to the development and implementation of Work Life Balance Strategies for access by all employees.

QCAT's commitment to ensuring employees achieve work/life balance is evidenced by a number of staff participating in part time arrangements and staff also having access to leave arrangement and flexible working hours. QCAT also has an allocated carer's room which is equipped with a computer, bedding and numerous children's activities. These initiatives are promoted via the QCAT intranet site.

Early retirement, redundancy and retrenchment

As at the 30 June 2010 QCAT did not award any early retirement, redundancy or retrenchment packages.

Governance operations

List of consultants	Nil.
Cost of overseas travel	Nil.

Final report for the Children Services Tribunal

The Children Services Tribunal ensured accountability for the child protection system by promoting and protecting the rights and interests of vulnerable children and young people.

The tribunal operated in accordance with the *Children Services Tribunal Act 2000* and provided merit-based reviews of the following decisions:

- out-of-home placement decisions made by the Department of Communities (Child Safety Services)
- employment screening (blue card) decisions made by the Commission for Children and Young People and Child Guardian
- child-care centre licensing decisions made by the Office for Early Childhood Education and Care
- decisions made by the Department of Communities about people who wish to adopt a child.

The President of the Children Services Tribunal, Ms Julie Ford, was appointed as a full-time member of QCAT commencing on 1 December 2009.

Outstanding matters as 1 July 2009	Applications received between 1 July – 30 November 2009	Matters finalised by 30 November 2009	Outstanding matters as at 30 November 2009
107	111	132	86

Final report for the Commercial and Consumer Tribunal

The Commercial and Consumer Tribunal provided dispute resolution, administrative reviews and disciplinary hearings for a wide range of matters relating to architects, body corporate and community management, building issues, community services, disability services, engineers, liquor, lotteries, manufactured homes, property agents and motor dealers, plumbers and drainers, residential services accreditation, retirement villages and tourism services.

The tribunal under Chairperson Ms Julie-Anne Schafer, operated in accordance with the *Commercial and Consumer Tribunal Act 2003* and a number of empowering Acts.

Outstanding matters as 1 July 2009	Applications received between 1 July – 30 November 2009	Matters finalised by 30 November 2009	Outstanding matters as at 30 November 2009
599	543	542*	600

*Tribunal mediators achieved an 80 per cent success rate in resolving domestic and commercial building disputes by mediation.

Final report for the Guardianship and Administration Tribunal

The Guardianship and Administration Tribunal operated in accordance with the *Guardianship and Administration Act 2000*. The tribunal's functions included:

- making decisions about the capacity of an adult
- appointing guardians and administrators and reviewing their appointments
- making declarations, orders, recommendations or giving directions and advice to guardians and administrators
- approving decisions or proposed decisions by informal decision makers and
- consenting to special health care.

The President of the Guardianship and Administration Tribunal, Ms Susan Gardiner, was appointed as a full-time member of QCAT commencing on 1 December 2009.

Outstanding matters as 1 July 2009	Applications received between 1 July – 30 November 2009	Matters finalised by 30 November 2009	Outstanding matters as at 30 November 2009
1685	3985	3282	2388

Type and number of limitation orders made 1 July 2009 – 30 November 2009

Limitation order type	Number made
Number of adults	2648
Adult evidence order	1
Closure order	0
Non-publication order	0
Confidentiality order	2
Total applications received	17

Guardians for restrictive practices finalised applications 1 July 2009 – 30 November 2009

	Guardianship order made	Guardianship order renewed and varied	Dismissed	Deceased	Administrative closure	Withdrawn at hearing	Total
Guardianship for restrictive practice	199	0	23	3	3	11	239
Review of guardianship for restrictive practice	5	0	3	0	0	0	8

Containment, seclusion and other restrictive practices approvals made 1 July 2009 – 30 November 2009

	Approved	Dismissed	Deceased	Withdrawn/ administrative closure	Total
Containment	13	2	0	4	19
Review of containment	8	0	0	0	8
Seclusion	12	0	0	3	15
Review of seclusion	6	0	0	0	6
Application for another restrictive practice	16	0	0	11	27
Review of application for another restrictive practice	6	0	0	0	6

Positive behaviour support plan compliance checks made 1 July 2009 – 30 November 2009

Plans checked	Compliant	Not compliant
4	4	0

Final report for the Misconduct Tribunals

The Misconduct Tribunals had both original and appellate jurisdictions and heard and determined applications relating to allegations of misconduct in accordance with the *Misconduct Tribunals Act 1997*.

Senior member Ms Margaret McLennan transferred into QCAT as a sessional member, when it commenced on 1 December 2009.

Outstanding matters as 1 July 2009	Applications received between 1 July – 30 November 2009	Matters finalised by 30 November 2009	Outstanding matters as at 30 November 2009
12	2	10	4

Final report for the Racing Appeals Tribunal

The Racing Appeals Tribunal heard and determined appeals against decisions of control bodies and their stewards affecting licensees in matters relating to licensing, disciplinary action, exclusion or monetary penalties. It also heard appeals from stewards against decisions of first level appeal bodies in thoroughbred and harness racing. The tribunal operated in accordance with the *Racing Act 2002*.

The Chairperson of the Racing Appeals Tribunal Leo Williams passed away during the reporting period.

Outstanding matters as 1 July 2009	Applications received between 1 July – 30 November 2009	Matters finalised by 30 November 2009	Outstanding matters as at 30 November 2009
8	13*	13*	8

*8 for thoroughbred racing, 3 for harness racing and 2 for greyhound racing.

2009–10 financial statements for QCAT

\$000's	2009-10*		
	Budget	Actual	Variance
Income			
Appropriation	8,376.9	8,376.9	0.0
Fees for service	1,493.1	1,500.2	7.1
LPITAF	29.3	29.3	0.0
Operational income	9,899.3	9,906.4	7.1
Expenses			
Staff employment costs	4,107.9	4,561.6	(453.7)
Member wage costs	2,996.1	3,022.4	(26.3)
Property costs	1,522.3	1,531.7	(9.4)
Overheads	1,273.0	1,221.1	51.9
Total operating expenses	9,899.3	10,336.8	(437.5)
Operational position	0.0	(430.4)	(430.4)
Projects and initiatives			
Project funding	1,006.7	1,006.7	0.0
Project expenses	(1,006.7)	(54.2)	952.5
Project position	0.0	952.5	952.5
(Over)/under budget	0.0	522.1	522.1

* Note: QCAT commenced operations on 1 December 2009

2009–10 financial statements for former tribunals

\$000's	Children Services Tribunal			Commercial and Consumer Tribunal		
	Budget	Actual	Variance	Budget	Actual	Variance
Revenue	710	581	(129)	1,589	1,573	(16)
Expenses						
Employee expenses	348	271	77	891	846	45
Supplies and services	352	341	11	663	624	39
Depreciation and amortisation	10	4	6	35	33	2
Total expenses	710	616	94	1,589	1,503	86
Under/(over) budget	0	(35)	(35)	0	70	70

	Guardianship and Administration Tribunal			Misconduct Tribunals		
	Budget	Actual	Variance	Budget	Actual	Variance
Revenue	2,998	2,998	0	22	22	0
Expenses						
Employee expenses	1,842	1,737	105	11	14	(3)
Supplies and services	1,098	1,343	(245)	11	19	(8)
Depreciation and amortisation	58	59	(1)	0	0	
Total expenses	2,998	3,139	(141)	22	33	(11)
Under/(over) budget	0	(141)	(141)	0	(11)	(11)

	Racing Appeals Tribunal		
	Budget	Actual	Variance
Revenue	37	37	0
Expenses			
Employee expenses	18	18	0
Supplies and services	19	25	(6)
Depreciation and amortisation	0	0	0
Total expenses	37	43	(6)
Under/(over) budget	0	(6)	(6)

Glossary

Active case management	When QCAT members take a proactive role in the management of cases for example, listing the case for a compulsory conference, to ensure the case progresses steadily.
Adversarial	A legal system or proceeding that involves conflicting parties or interests.
Adjudicators	Legally qualified QCAT decision makers for minor civil disputes and other matters before the tribunal.
ADR	Alternative dispute resolution
Alternative dispute resolution	Resolution of a matter through mediation or conferencing rather than the adversarial process.
CAD	Civil, Administrative and Disciplinary Division
Client lifecycle	The process a QCAT client will go through from the receipt of their application to the resolution of their matter.
Compulsory conferences	A dispute resolution method used by the tribunal to mediate settlement, identify issues in dispute and make orders and directions between the parties.
Directions	The tribunal has to the power to order parties to do certain things to streamline the progress of a matter before the tribunal, for example for the parties to file and exchange material.
Enduring power of attorney	Legal document a person can prepare to give someone else the power to make personal or financial decisions on their behalf.
HuRD	Human Rights Division
Impaired capacity	The inability of a person to go through the process of reaching a decision and putting it into effect. There are three elements to making a decision: <ul style="list-style-type: none"> • understanding the nature and effect of the decision • freely and voluntarily making a decision • communicating the decision in some way.
Jurisdiction	The legislative power of the tribunal to hear and determine certain matters.
LPITAF funding	The Legal Practitioner Interest on Trust Accounts Fund is a fund derived from the interest accrued on solicitors' trust accounts, which is administered by the Queensland Law Society to fund legal services in the community.
MCD	Minor civil dispute
Mediation	A dispute resolution method used for bringing about agreement or reconciliation between parties. This involves exploring possible agreement without an adversarial hearing. Mediations are conducted by an impartial dispute resolution professional.
Members	Professionally qualified QCAT decision makers for disputes before the tribunal.
Minor civil disputes	A claim for certain debts or disputes limited to \$25,000 or less.
QCAT	Queensland Civil and Administrative Tribunal.
Submissions	An outline of argument parties may submit to the tribunal based on the evidence that has been put before the tribunal.

Appendix 1 – Former tribunals

Anti-Discrimination Tribunal
 Appeal tribunals formed under the *Local Government Act 2009*
 Children Services Tribunal
 Commercial and Consumer Tribunal
 Fire Panel of Referees
 Fisheries Tribunal
 Guardianship and Administrative Tribunal
 Health Practitioners Tribunal
 Independent Assessor under the *Prostitution Act 1999*
 Legal Practice Tribunal
 Misconduct Tribunal
 Nursing Tribunal
 Racing Appeal Tribunal
 Retail Shop Leases Tribunal
 Small Claims Tribunal
 Surveyors Disciplinary Committee
 Teachers Disciplinary Committee
 Veterinary Tribunal.

QCAT reviews a range of decisions which were previously reviewed by:

- the Supreme Court
- the District Court
- the Magistrates Court
- other statutory bodies including the Gaming Commission and Information Commissioner.

Appendix 2 – Member appointments

Name	Position	Appointment start date	Appointment end date
Susan Booth	Senior Member	1/12/2009	30/11/2014
Clare Endicott	Senior Member	1/12/2009	30/11/2014
Kerrie O'Callaghan	Senior Member	1/01/2010	30/11/2014
Richard Oliver	Senior Member	1/12/2009	30/11/2014
James Allen	Member	1/12/2009	30/11/2014
Adrian Ashman	Member	1/12/2009	30/11/2014
Elizabeth Benson-Stott	Member	1/12/2009	30/11/2014
Julie Ford	Member	1/12/2009	30/11/2014
Susan Gardiner	Member	1/12/2009	30/11/2014
Patricia Hanly	Member	1/12/2009	30/11/2014
Michelle Howard	Member	1/12/2009	30/11/2014
Ronald Joachim	Member	1/12/2009	30/11/2014
Bridget Cullen Mandikos	Member	1/12/2009	30/11/2014
Peta Stilgoe	Member	1/12/2009	30/11/2014
John Bertelsen	Adjudicator	1/12/2009	30/11/2014
Kate Buxton	Adjudicator	8/03/2010	30/11/2014
Trevor Davern	Adjudicator	1/12/2009	30/11/2014
Kay Kirmos	Adjudicator	1/03/2010	28/02/2015
William LeMass	Adjudicator	1/12/2009	30/11/2014

Name	Position	Appointment start date	Appointment end date
Christine Trueman	Adjudicator	1/12/2009	30/11/2014
Allanah Aitken	Sessional Member	1/12/2009	30/11/2011
Michele Alroe	Sessional Member	1/12/2009	30/11/2011
Margaret Arthur	Sessional Member	1/12/2009	30/11/2011
Johanna Bakermans	Sessional Member	1/12/2009	30/11/2011
Brydget Barker-Hudson	Sessional Member	1/12/2009	30/11/2011
Kenneth Barlow	Sessional Member	1/12/2009	30/11/2011
Sean Barry	Sessional Member	1/12/2009	30/11/2011
Barbara Bayne	Sessional Member	1/12/2009	30/11/2011
Philippa Beckinsale	Sessional Member	1/12/2009	30/11/2011
Susan Bothmann	Sessional Member	1/12/2009	30/11/2011
Thomas Bradley	Sessional Member	1/12/2009	30/11/2011
Alexander Brands	Sessional Member	1/12/2009	30/11/2011
Suzanne Brooks	Sessional Member	1/12/2009	30/11/2011
Joanne Browne	Sessional Member	1/12/2009	30/11/2011
Robert Bulley	Sessional Member	1/12/2009	30/11/2011
Simon Burgess	Sessional Member	1/12/2009	30/11/2011
Annette Carrigan	Sessional Member	1/12/2009	30/11/2011
Julia Casey	Sessional Member	1/12/2009	30/11/2011
Sharon Christensen	Sessional Member	1/12/2009	30/11/2011
Gregory Clarke	Sessional Member	1/12/2009	30/11/2011
Leslie Clarkson	Sessional Member	1/12/2009	30/11/2011
Roxanne Clifford	Sessional Member	1/12/2009	30/11/2011
James Cockerill	Sessional Member	1/12/2009	30/11/2011
Nigel Collings	Sessional Member	1/12/2009	30/11/2011
Michael Conrad	Sessional Member	1/12/2009	30/11/2011
Barry Cotterell	Sessional Member	1/12/2009	30/11/2011
Julie Cowdroy	Sessional Member	1/12/2009	30/11/2011
Christopher Coyne	Sessional Member	1/12/2009	30/11/2011
Alexander Crawford	Sessional Member	1/12/2009	30/11/2011
Beverley Day	Sessional Member	1/12/2009	30/11/2011
Michelle Dooley	Sessional Member	1/12/2009	30/11/2011
Russell Duigan	Sessional Member	1/12/2009	30/11/2011
Tracy Lee Fantin	Sessional Member	1/12/2009	30/11/2011
Paul Favell	Sessional Member	1/12/2009	30/11/2011
Penelope Feil	Sessional Member	1/12/2009	30/11/2011
Jennifer Felton	Sessional Member	1/12/2009	30/11/2011
Ann Fitzpatrick	Sessional Member	1/12/2009	30/11/2011
Anne Forbes	Sessional Member	1/12/2009	30/11/2011
Colin Forrest	Sessional Member	1/12/2009	30/11/2011

Name	Position	Appointment start date	Appointment end date
John Gallagher	Sessional Member	1/12/2009	30/11/2011
Keith Geraghty	Sessional Member	1/12/2009	30/12/2011
Pamela Goodman	Sessional Member	1/12/2009	30/11/2011
Jody Gosling	Sessional Member	1/12/2009	30/11/2011
Robert Grant	Sessional Member	1/12/2009	30/11/2011
Myrtle Green	Sessional Member	1/12/2009	30/11/2011
Robert Gregory	Sessional Member	1/12/2009	30/11/2011
Catherine Heyworth-Smith	Sessional Member	1/12/2009	30/11/2011
Judith Himstedt	Sessional Member	1/12/2009	30/11/2011
Alison Holm	Sessional Member	1/12/2009	30/11/2011
Susann Holzberger	Sessional Member	1/12/2009	30/11/2011
Rosalind Hourigan	Sessional Member	1/12/2009	30/11/2011
Elizabeth Hulin	Sessional Member	1/12/2009	30/11/2011
Anne Jarrett	Sessional Member	1/12/2009	30/11/2011
Nathan Jarro	Sessional Member	1/12/2009	30/11/2011
Lynette Johannessen	Sessional Member	1/12/2009	30/11/2011
Mark Johnston	Sessional Member	1/12/2009	30/11/2011
Neil Judge	Sessional Member	1/12/2009	30/11/2011
Sandra Kairl	Sessional Member	1/12/2009	30/11/2011
Rosemary Kyburz	Sessional Member	1/12/2009	30/11/2011
Gregory Lewis	Sessional Member	1/12/2009	30/11/2011
David Liddell	Sessional Member	1/12/2009	30/11/2011
Jill Loane	Sessional Member	1/12/2009	30/11/2011
Janice Logan	Sessional Member	1/12/2009	30/11/2011
Stuart MacDonald	Sessional Member	1/12/2009	30/11/2011
Malcolm Macrae	Sessional Member	1/12/2009	30/11/2011
Elena Marchetti	Sessional Member	1/12/2009	30/11/2011
Donald McBryde	Sessional Member	1/12/2009	30/11/2011
Michael McCarthy	Sessional Member	1/12/2009	30/11/2011
Peter McDermott	Sessional Member	11/06/2010	30/11/2014
Louise McDonald	Sessional Member	1/12/2009	30/11/2011
Paul McGrath	Sessional Member	1/12/2009	30/11/2011
Margaret McLennan	Sessional Member	1/12/2009	30/11/2011
Leslie McNamara	Sessional Member	1/12/2009	30/11/2011
Brockwell Miller	Sessional Member	1/12/2009	30/11/2011
Sharon Mills	Sessional Member	1/12/2009	30/11/2011
Elissa Morriss	Sessional Member	1/12/2009	30/11/2011
Gwenn Murray	Sessional Member	1/12/2009	30/11/2011
Fay O'Donnell	Sessional Member	1/12/2009	30/11/2011

Name	Position	Appointment start date	Appointment end date	
Lisa O'Neill	Sessional Member	1/12/2009	30/11/2011	
Maureen O'Regan	Sessional Member	1/12/2009	30/12/2011	
Marjorie Pagani	Sessional Member	1/12/2009	30/11/2011	
Carol Peltola	Sessional Member	1/12/2009	30/11/2011	Deceased 14/2/2010
Phillip Pennington	Sessional Member	1/12/2009	30/11/2011	
Jenny Promnitz	Sessional Member	1/12/2009	30/11/2011	Resigned 6/01/2010.
Graham Quinlivan	Sessional Member	1/12/2009	30/11/2011	
Darryl Rangiah	Sessional Member	1/12/2009	30/11/2011	
Karyn Reardon	Sessional Member	1/12/2009	30/11/2011	
Judith Reid	Sessional Member	1/12/2009	30/11/2011	
Kim Richards	Sessional Member	1/12/2009	30/11/2011	
Peter Richards	Sessional Member	1/12/2009	30/11/2011	
Eleanor Robertson	Sessional Member	1/12/2009	30/11/2011	
Peter Roney	Sessional Member	1/12/2009	30/11/2011	
Richard Roylance	Sessional Member	1/12/2009	30/11/2011	
Beverley Russell	Sessional Member	1/12/2009	30/11/2011	
Katherine Schmider	Sessional Member	1/12/2009	30/11/2011	
Stephen Sheaffe	Sessional Member	1/12/2009	30/11/2011	
Grant Sommerville	Sessional Member	1/12/2009	30/11/2011	
Glenice Spender	Sessional Member	1/12/2009	30/11/2011	
Rosemary Stafford	Sessional Member	1/12/2009	30/11/2011	
Stephen Stathis	Sessional Member	1/12/2009	30/11/2011	
Aaron Suthers	Sessional Member	1/12/2009	30/11/2011	
Andrew Swindells	Sessional Member	1/12/2009	30/11/2011	
Ian Thomas	Sessional Member	1/12/2009	30/11/2011	
James Thomas	Sessional Member	1/12/2009	30/11/2011	
Peter Toohey	Sessional Member	1/12/2009	30/11/2011	
Margaret Watson	Sessional Member	1/12/2009	30/11/2011	
Kenneth Watson	Sessional Member	1/12/2009	30/11/2011	
Shirley Watters	Sessional Member	1/12/2009	30/11/2011	
Ian Wells	Sessional Member	1/12/2009	30/11/2011	
Robert Wensley	Sessional Member	1/12/2009	30/11/2011	
Adrian Williams	Sessional Member	1/12/2009	30/11/2011	
Tammy Williams	Sessional Member	1/12/2009	30/11/2011	
Lindy Willmott	Sessional Member	1/12/2009	30/11/2011	
Elizabeth Wilson	Sessional Member	1/12/2009	30/11/2011	
Jennifer Wiltshire	Sessional Member	1/12/2009	30/11/2011	
Michael Wood	Sessional Member	1/12/2009	30/11/2011	
Peter Wulf	Sessional Member	1/12/2009	30/11/2011	
Yvonne Zardani	Sessional Member	1/12/2009	30/11/2011	Resigned 02/03/2010



QCAT Annual Report
2009–10

