

Queensland's Guardianship and Administration system

Video transcript

Everyone has the right to make the decisions that affect their life. However, due to accident, illness or an intellectual disability, a person may not have the capacity to make some or all of their decisions, and needs someone to help them.

In many cases, this person can manage their day to day life with support and informal decision making. This means that friends and family can help them with things like:

- shopping
- paying bills and
- social outings.

But there are some situations when a person may need a formal decision maker to act on their behalf. For example:

- moving into aged care
- selling a house
- ongoing health decisions or
- access to support services.

If a person has not completed an Enduring Power of Attorney to nominate their own formal decision maker, it may be necessary for a formal decision maker to be appointed by a tribunal. This is the role of the Queensland Civil and Administrative Tribunal, also known as QCAT.

First an application form needs to be submitted to QCAT, which can be done by anyone who has a personal or professional interest in the person's situation.

The form needs to include information about the decision or decisions that need to be made, and a medical report showing that the person doesn't have the capacity to make these decisions themselves. It should also include the risks to the person if no one is appointed to make these decisions.

QCAT will hold a hearing where all interested parties can attend. The QCAT Member is able to hear all the evidence on the points raised in the application and talk to the relevant people in the person's life, including the person themselves.

QCAT then decides whether the person needs a formal decision maker, and whether they need a decision maker for personal matters, a decision maker for financial matters, or both.

QCAT will also decide the particular areas in the person's life that a formal decision maker should be involved with. So for personal matters, a formal decision maker might be appointed for all personal matters or just for specific areas such as accommodation,

service provision or health.

The formal decision maker can only make decisions in the specific areas that QCAT defines. So for example, they cannot make decisions about where the person lives unless accommodation is an area listed by QCAT.

The person formally appointed to make decisions about personal matters is known as a guardian. Personal matters include what health care a person receives, where they live and what services they have access to. A guardian can also make legal decisions, although not about financial or property matters.

The person formally appointed to make decisions about financial matters is known as an administrator. Their role might include managing a person's money and investments, as well as legal matters regarding money and property.

If both a guardian and administrator are needed, QCAT may appoint the same person. If different people are appointed to each role, they will need to work together.

QCAT will appoint someone who it believes is most appropriate. The QCAT Member will also consider the wishes of the person and other interested parties including their family. Ideally, a family member or friend of the person will be appointed. However where there is no one suitable in the person's life, or no one willing to take on the role, QCAT may appoint the Public Guardian as guardian and/or the Public Trustee as administrator.

If the Public Guardian is appointed, a delegate guardian will work with the person and their support network to make decisions. It's important to understand that the Public Guardian doesn't take on the role of day to day support for the person, and a delegate guardian only needs to be involved in a person's life when a decision needs to be made.

The Public Guardian does not make financial decisions for a person. That would be the role of the administrator.

If the Public Trustee is appointed as a person's administrator, a trust officer will work with the adult and their support network to make decisions on the management of their financial affairs.

Information about QCAT processes and the role and responsibilities of the Public Trustee can be found on the websites of each organisation.

More information about the role and responsibilities of the Public Guardian can be found on our website.

Office of the Public Guardian Queensland 2020