



## Glossary of Terms - Guardianship and Administration

Adjourn	To suspend or postpone a QCAT hearing to a future date.
Administrator	A person appointed by QCAT to assist adults with impaired decision-making capacity by making certain financial and legal decisions on their behalf.
ADR	Alternative dispute resolution – includes mediation, conciliation and compulsory conferences.
Advance Health Directive (AHD)	While an adult still has decision-making capacity they can record their wishes about their health and any medical treatment, and appoint an Attorney for personal and health matters.
Adult	The person whose decision-making capacity is being questioned.
Advocate	The person presenting a case to QCAT or decision makers on behalf of the Adult.
Affidavit	A written statement made by a person to be used in a court proceeding as evidence. A person who makes an affidavit must swear on oath or make an affirmation that the contents of the affidavit are true. A person who makes an affidavit may be cross-examined about its contents at a hearing.
Affirmation	A declaration made instead of an oath.
Appeal	A procedure which, in certain circumstances, a party may request a higher decision-maker to reconsider a decision made. Often leave (or permission) to appeal is required before a decision is reconsidered.
Applicant	The person who has submitted an application to QCAT requesting assistance in resolving a dispute, grievance or other issue.
Attorney	A substitute decision maker appointed by an Adult under an EPOA or AHD.
Bankrupt	When a person is unable to pay their debts, a court may order that their financial affairs be managed by a trustee who will call in all that person's assets and pay debts from available funds.

Beneficiary	A person who is left something in a will or a person for whose benefit property is held by a trustee.
Breach of duty of care	Negligent or careless conduct, or failure to act, by a person who owes a duty of care to another and who fails to maintain the standard of care necessary to fulfil that duty.
Capacity	Means an Adult is capable of: <ul style="list-style-type: none"> <li>• Understanding the nature and effect of decisions about a matter; and</li> <li>• Freely and voluntarily making decisions about the matter; and</li> <li>• Communicating the decisions in some way.</li> </ul>
Compulsory Conference	A dispute resolution method used by QCAT to mediate, identify issues in dispute, and make orders and directions.
Decision	A decision is the orders given by QCAT when a matter has been determined by a QCAT Tribunal member.
Directions	Orders made by QCAT for parties to do certain things to progress a matter e.g. to file and exchange material.
Dismissal	A QCAT application is dismissed where the Tribunal member decides that the application is without merit, has not been proved by the applicant or for another reason provided by the Tribunal member.
Dispute Resolution Centres	The Department of Justice and Attorney-General's dispute resolution centres provide free and confidential mediation services throughout Queensland.
Enduring Power of Attorney (EPOA)	Legal document an Adult (Principal) can prepare to give someone else the power to make personal or financial decisions on their behalf.
Evidence	The facts, circumstances or documents that parties present to QCAT to prove their case. Evidence must be given orally or in writing and if required, under oath or by affidavit.
Financial matter	Means a matter relating to an Adult's financial or property matters, for example, paying rent, carrying on business or undertaking a real estate transaction.
General Principles	Provide guidance on how substitute decision makers are to make decisions. Found in the <i>Guardianship and Administration Act 2000</i> (Qld) and the <i>Mental Health Act 2000</i> (Qld).

Guardian	A guardian is a person appointed to help adults with impaired decision-making capacity by making certain personal and health care decisions on their behalf.
Guardianship and Administration Act 2000 (Qld)	Qld Legislation that regulates substitute decision makers and gives QCAT authority to appoint decision makers.
Health matter	Means a matter relating to the care or treatment of, or service or procedure for, a person's physical or mental condition carried out by a health provider.
Hearings 'on the papers'	When a QCAT hearing takes place without the parties being present and QCAT only considers written material provided by the parties.
Impaired Capacity	The inability of an Adult to go through the process of reaching a decision about a matter and putting it into effect based on three elements: <ul style="list-style-type: none"> <li>• understanding the nature and effect of the decision;</li> <li>• freely and voluntarily making a decision;</li> <li>• communicating the decision in some way</li> </ul>
Interim Order	This is used to describe an order that is not a final order of the QCAT. <ul style="list-style-type: none"> <li>• Interim Orders last for a maximum 3 months and are usually conducted 'on the papers'.</li> </ul>
Legislation	Written law made by the Parliament, or by a delegate of the Parliament such as the Governor in Council.
Mediation	A dispute resolution method used to assist agreement or reconciliation between parties. This involves exploring possible agreements without an adversarial hearing. Mediations are conducted by impartial dispute resolution professionals.
Mental Health Act 2016 (Qld)	Qld Legislation that regulates care and decision making for adults with mental health issues.
Mental Health Review Tribunal (MHRT)	An independent Qld tribunal to review orders for adults under Mental Health treatment orders such as Involuntary Treatment Orders (ITO) and Forensic Orders (FO).
Natural justice	The principle that requires a tribunal to conduct a fair and proper hearing without bias.
Order	A direction or instruction from QCAT that a party do a certain task or provide a certain document.
Penalty	A punishment, fine or disadvantage imposed by

	QCAT for wrong conduct.
Personal matter	Matters relating to an Adult's care, health or welfare, for example, where they live, what work or education they undertake, health care, and legal matters not relating to financial or property matters.
Powers of Attorney Act 1998 (Qld)	Qld Legislation that regulates substitute decision makers appointed by an Adult under an Enduring Power of Attorney (EPOA).
Presumption of capacity	The legal presumption in Qld that all adults have capacity to make all decisions, regardless of any health conditions. The presumption may be rebutted if there is evidence to confirm that the adult currently lacks capacity.
Principal	Refers to an Adult for whom an Attorney makes decisions.
Procedural fairness	Part of natural justice. The obligation to ensure that parties are given the opportunity to put their case to QCAT, including being able to respond to another party's case.
Public Guardian (Office of the Public Guardian - OPG)	An independent statutory body that protects the rights and interests of Adults with impaired capacity to make their own decisions.
Public Trustee Qld (PTQ)	A self-funding statutory authority that provides trustee, financial and related services, and may be appointed as substitute decision maker for Adults who have impaired capacity to make their own financial decisions.
Qld Civil and Administrative Tribunal (QCAT)	An independent Qld tribunal whose authority includes consideration of an Adult's capacity and the appointment of Guardians and Administrators.
Reasons for a decision	The explanation of why a Tribunal member made a decision. Reasons can be given either at the hearing or at a later time. If the reasons are given verbally at the hearing a person can apply to have a copy of the reasons given to them at no cost. QCAT must provide a copy of the reasons within 45 days of the request.
Supportive Decision Making	Any support, needed to be given, to an Adult, to enable them to make their own decisions.
Statutory Health Attorney (SHA)	A person informally nominated to make health decisions for an Adult where the Adult has impaired

	<p>capacity for the matter and there is no alternative substitute decision maker.</p> <p>The SHA hierarchy is:</p> <ol style="list-style-type: none"> <li>1. Adult's spouse (close and continuing, includes de facto and same sex)</li> <li>2. Adult's unpaid carer (does not refer to Centrelink benefits)</li> <li>3. Adult's close family or friends (who is not a paid carer of the adult)</li> <li>4. The Public Guardian</li> </ol>
Stay	A 'stay' of a QCAT decision postpones a decision taking effect until a certain date.
Substitute Decision Maker	A person who 'stands in the shoes' of the Adult and who can make all decisions the Adult themselves could make. A substitute decision maker can be informal, appointed by the Adult under an EPOA or AHD, or appointed for the Adult under a SHA or by QCAT. Last resort decision making.
Tribunal	An independent body established by legislation that hears and determines disputes between parties. Eg QCAT, MHRT.