

Administration



What is administration and how does it work?

Administration is the appointment of a person known as an 'administrator' to make decisions regarding an adult's financial and some legal affairs. For example, the administrator may make decisions related to the payment of bills or anything to do with the adult's finances and property.

All adults over the age of 18 years, regardless of disability, have a right to make their own decisions. There are circumstances where an adult may decide to appoint someone to manage their financial and legal affairs under an enduring power of attorney, in which case the attorney would be responsible for making decisions when the adult no longer has the capacity to do so. However, the adult would still need to be consulted.

Alternatively, an administration order can be obtained by commencing an application with the Queensland Civil and

Administrative Tribunal (**QCAT**) requesting the appointment of an administrator. QCAT will hear the matter and decide if an administrator is necessary. If the adult has family or close friends who can support the adult, an appointed administrator should not be necessary.

Why is an administration order made?

The *Guardianship and Administration Act 2000* (Qld) (the **Act**) provides that QCAT may appoint an administrator for a financial matter for an adult if it is satisfied:

1. The adult has impaired capacity;
2. There is a need for a decision; and
3. Without an appointment –
 - a. the adult's needs will not be adequately met; or
 - b. the adult's interests will not be adequately protected.

Please see the factsheet on 'Capacity' for further information.

Who can be an administrator?

To be appointed as an administrator, a person must be at least 18 years of age, not a paid carer or health provider of the adult and not bankrupt or taking advantage of the laws of bankruptcy as a debtor under the *Bankruptcy Act 1966* (Cth) or a similar law in a foreign jurisdiction. For example, a relative who receives a carer's payment for the adult could not be appointed as an administrator.

QCAT can appoint an individual such as a relative, friend, solicitor or organisation such as the Public Trustee. The administrator must be able to competently manage the adult's financial and legal affairs, and act in their best interests. QCAT will consider the appropriateness and competence of a person before appointing them as an administrator.

When deciding who to appoint, QCAT must take into account the adult's wishes, so far as they can be ascertained, as well as family members and interested parties. If there is no one available or there is a disagreement, an independent administrator such as the Public Trustee may be appointed.



What decisions can an administrator make?

An administrator can only make decision regarding the adult's financial and some legal affairs, such as managing their banking, paying bills or selling property. The administration order made by QCAT will provide details about the scope of the administrator's decision-making authority. An administrator cannot make personal decisions such as where the adult lives or what services they receive. An administrator may, however, need to consent to the amount of rent an adult is to pay at an accommodation. An administrator's role is to ensure the adult's financial and legal needs are met and their interests are protected.

What are the responsibilities of the administrator?

In performing their duties, an administrator must apply the general principles outlined in the *Guardianship and Administration Act 2000* (Qld). This means an administrator must:

- Apply the presumption of capacity;
- Recognise and take into account the adult's human rights and fundamental freedoms;
- Empower the adult to exercise their human rights and fundamental freedoms;
- Maintain the adult's existing supportive relationships;
- Maintain the adult's cultural and linguistic environments and values;
- Respect the adult's privacy;
- Recognise and protect the adult's right to liberty and security;
- Maximise the adult's participation in decision-making;
- Make decisions in a way that promotes and safeguards, and is least restrictive of, the adult's rights, interests, and opportunities; and
- Adopt a structured decision-making approach.

An administrator also should:

- Act honestly and with reasonable diligence;
- Exercise their power within the terms of the order of QCAT;
- Avoid entering into a conflict transaction;
- Keep records;
- Keep their own property separate from the adult's property;
- Only invest in authorised investments;
- Maintain the adult's dependents;
- Encourage and support the adult to live a life in the general community;
- Encourage self-reliance; and
- Maintain the adult's existing supportive network.

How long does an administration order last for?

Generally, an administration order can last for a maximum of five years at which time it will need to be reviewed. If the Public Trustee of Queensland is appointed as administrator, there may be no limitation date to their appointment. Administration orders can be reviewed by QCAT at any time. The order will be stopped if QCAT finds that the order is no longer needed.

Can an administration order be reviewed?

Yes, please see the factsheet on 'Review of Administration and Guardianship Orders'.

This factsheet has been prepared by Queensland Advocacy Incorporated (QAI), an independent, community-based advocacy organisation for people with disability in Queensland (www.qai.org.au). This publication is for general information only. It must not be relied on as legal advice. You must seek legal advice about your own particular circumstances.