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# 'Lack of funding' impacting QCAT

6 March 2024(<https://web.archive.org/web/20250212103635/https://www.qlsproctor.com.au/2024/03/06/>)



Natalie Gauld (<https://web.archive.org/web/20250212103635/https://www.qlsproctor.com.au/author/natalie-gauld/>)

**The Queensland Civil and Administrative Tribunal (QCAT) is “challenged with burden and demand”, according to the 2022-23 Annual Report which was tabled in Parliament last month.**

QCAT President Justice Mellifont outlined the challenges in the 61-page report, many of which are directly related to funding and staffing.

Queensland Law Society called on the State Government in October last year (<https://web.archive.org/web/20250212103635/https://www.qlsproctor.com.au/2023/10/qls-calls-for-more-qcat-resources/>) to provide more to the over-stretched QCAT and those calls were reiterated by a QLS committee chair after the tabling of the report.

Justice Mellifont, who was appointed to the position in October 2021, stated in the report: “In last year’s President’s message, I spoke about QCAT having become a behemoth since its inception. That its jurisdiction grows year on year, with increasing breadth, diversity, complexity and volume is undeniable.

“I have said previously that when I first started in this role, I was struck by the commitment of QCAT’s staff and the Tribunal’s decision makers to the delivery of justice services.

“As I write this, I remain in awe of their resolve, to get on and get the job done, as best as they can.

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“This is despite being stretched well beyond capacity, despite the challenges of severe under resourcing, and despite the challenges of the misconceptions many members of the community have about the importance and extent of QCAT’s work.”

Chair of the QLS Access to Justice and Pro Bono Law Committee Elizabeth Shearer said Justice Mellifont’s report “contains very concerning data about delays in QCAT, and solicitors right across Queensland are observing the serious impact of this”.

“QCAT does so much more than just small claims. It is where most people experience the civil justice system in Queensland, and it deals with important cases where fundamental human rights are at stake,” Elizabeth said.

“For example, in the guardianship jurisdiction, an application to QCAT is only needed when informal supports are insufficient, and a decision, vital to the welfare of a vulnerable person, needs to be made. Until QCAT deals with a case there is an ongoing risk to that person. Delays of months before a decision is made is unacceptable.

“We know that QCAT is doing the best it can with the resources it has, and we know that the government is aware that its resources are insufficient, because it has made some additional funding available.

“But, so far, the government has failed to address the problem.”

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In the trends and resource section of the report, Justice Mellifont noted: “The need is clear and becoming ever increasing given increases in lodgements QCAT has been, and is currently, experiencing ... the reporting period saw a nine per cent increase in cases lodged from the previous year.

“The maxim, ‘justice delayed is justice denied’, is often used. That, perhaps, is because it is true. I am concerned that without resources being substantially increased, to put QCAT on a sustainable footing currently and into the future, QCAT will be increasingly unable to deliver on its statutory objects.

“QCAT will continue to strive to find efficiencies within existing resources, but the reality is that without a substantial investment, times to finalisation for guardianship will continue to blow out, and potentially exponentially.

“The consequential effects can be significant in this jurisdiction which serves a particularly vulnerable cohort of Queenslanders, including those the subject of domestic and family violence, and the elderly. Put shortly, the consequences are significant, life-altering consequences of not appointing a guardian promptly. It need hardly be said that the funding imperative in guardianship is powerful, and has reached a stage where it is critical.”

Elizabeth said the legislation that established QCAT set out its objectives – “to deal with matters in a way that is accessible, fair, just, economical, informal and quick”.

“It is the responsibility of government to fund QCAT so it can meet those objects,” she said.

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“Until QCAT is resourced adequately, we can’t really say that the rule of law is operating well in Queensland.”

Justice Mellifont said without significant extra resourcing in registry personnel, more full-time member positions and a substantially increased budget, the CAD (Civil, Administrative and Disciplinary division) jurisdiction was “unsustainable” and “there will be increased backlogs and decreased clearance rates”.

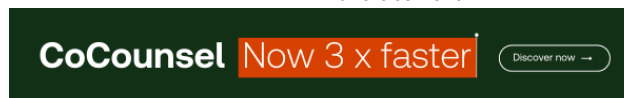
Her comments on the guardianship jurisdiction have also sparked concerns.

“In 2010, QCAT set a 12-week benchmark for matters to proceed to final hearing. Due to insufficient resourcing that goal has not been able to be achieved since January 2020,” she said in the report.

“The average time to final hearing has been on a steady upward increase since that time. During the reporting period, open applications awaiting a final hearing have increased by 12 per cent and the average time to finalise a matter has increased from 16 to 19 weeks, while some matters take considerably longer.”

Throughout the reporting period for minor civil disputes, the wait times from lodgement to hearing or mediation were over target timeframes.

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Over the reporting period in South-East Queensland, the average waits were:

- to hearing urgent tenancy: five weeks (three-week target)
- to hearing non-urgent tenancy: 19 weeks (five-week target)
- to hearing other matters: 12 weeks (five-week target)
- to mediation: 10 weeks (five-week target).

Justice Mellifont said in the report she was “not the first to have voiced concerns about QCAT’s current and historical underfunding”, going on to detail comments from several former Presidents dating back to 2010-2011.

In closing, she said: “Incremental budget allocations to QCAT over the years have not been sufficient. With the greatest of respect, the Independent Panel of Experts were of course completely correct in observing the need for adequate funding.

“Without it, the entire premise for the creation of QCAT as a place where justice can be achieved in a timely and fair way dissolves into nothing.

“I remain committed to devoting my presidency to working constructively with the government to

make QCAT sustainable, so it can deliver on its statutory objects for the people of Queensland.”

For more on the QCAT annual report

([https://web.archive.org/web/20250212103635/https://www.qcat.qld.gov.au/\\_\\_data/assets/pdf\\_file/0004/780394/Queensland-Civil-and-Administrative-Tribunal-Annual-Report-2022-23.PDF](https://web.archive.org/web/20250212103635/https://www.qcat.qld.gov.au/__data/assets/pdf_file/0004/780394/Queensland-Civil-and-Administrative-Tribunal-Annual-Report-2022-23.PDF)).

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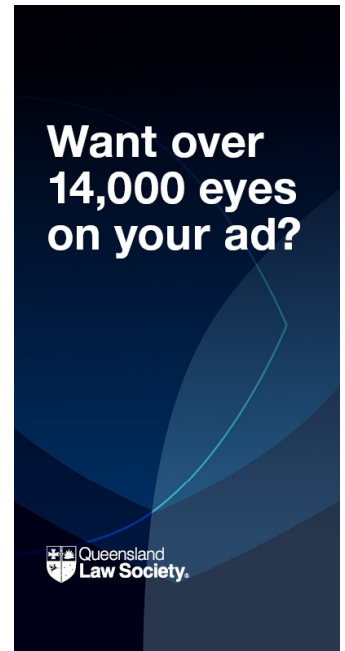


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