



# Consumer and trader disputes

A guide to help you resolve a dispute with a trader



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## Disclaimer

This guide is intended to provide you with information only. If you have a legal problem, you should get legal advice from a lawyer. Legal Aid Queensland believes the information provided is accurate as at March 2022 and does not accept responsibility for any errors or omissions.

We are committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. If you would like this publication explained in your language, please telephone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland. This is a free service.



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# How can this guide help me?

This guide provides general information about how to resolve a dispute with a trader involving an amount of \$25,000 or less.

The consumer-trader dispute claim procedures provide a quick and affordable way to help you collect what you are owed. You can do it yourself, without using a lawyer. This guide tells you:

- your rights as a consumer
- the procedure you will go through to resolve your dispute with a trader if you go to the Queensland Civil and Administrative Tribunal (QCAT)
- how to fill in the forms you will need.

If your dispute relates to purchasing a new or used warranted vehicle from a licenced motor dealer and the vehicle is defective, then you may be able to claim up to \$100,000 in compensation. Get legal advice.

## What is a consumer and trader dispute?

Consumer and trader disputes are disputes against another person, trader or company resulting from a contract for the supply of goods and services up to \$25,000.

Use the consumer and trader dispute section of this guide if:

- your dispute is \$25,000 or less and you believe a trader has broken an agreement you had about purchasing a product or service, or
- you are a trader and want to dispute an agreement with another trader who has provided you with goods or services
- you are within the time limit for making the claim—you usually have six years from the time the dispute began to bring your claim before the tribunal, so get legal advice to see if your claim is within the time limit
- you are a Queensland resident and the trader ordinarily carries out business in Queensland.

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## Do not use this guide if:

- your consumer and trader dispute is for more than \$25,000—although you can choose to limit your claim to \$25,000 if it is for a larger amount so it fits within QCAT’s jurisdiction
- your claim is not for a fixed amount
- you want to claim a minor debt (see Legal Aid Queensland’s *Does someone owe you money?* guide)
- you have a claim against a builder for losses associated with residential building work
- you have a dispute about a bond held by the Residential Tenancies Authority (RTA)
- you are claiming unpaid wages under the Fair Work Act.

The QCAT has other processes for some of these claims. For more information visit their website [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au) or call 1300 753 228.



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## Do I need to get legal advice?

It can sometimes be difficult to know whether your claim is a consumer and trader dispute. If you are unsure get legal advice from:

- Legal Aid Queensland – call 1300 65 11 88 (for the cost of a local call from a landline in Australia). Legal Aid is focused on providing legal advice to financially disadvantaged Queenslanders. To find out more visit [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au)
- a community legal centre – go to [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au) or call 1300 65 11 88 to check services in your area
- a private lawyer – call the Queensland Law Society on 1300 367 757 for names of lawyers who can help, or search “Find a Lawyer” at [www.qls.com.au](http://www.qls.com.au)



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# Consumers and contracts

## Who is a consumer?

A consumer is someone who buys or hires goods or services for less than \$100,000, or someone who buys or hires goods or services for more than \$100,000 that are ordinarily for personal, domestic or household use. Also, someone who buys a motor vehicle for use on public roads is a consumer, even if the vehicle is being bought for a commercial purpose and even if the vehicle is worth more than \$100,000.

A person is **not** a consumer if they buy or hire goods to use them up or transform them to produce or manufacture other goods, or to re-supply them to third parties. For example, a wedding photographer who buys a camera to take photos of wedding ceremonies is still a consumer, even though the transaction has a commercial purpose. However, if the same photographer buys canvases to print photos for customers, they will not be considered a consumer, because they are buying those goods with the plan to re-supply them.

Note that if you buy goods (including a car) from a private seller, including on Gumtree or Facebook marketplace or at a garage sale, you are not a consumer, and you cannot apply to QCAT to start a consumer-trader dispute. Get legal advice.

Typical consumer goods include:

- food
- clothes
- appliances
- furniture etc.

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Typical consumer services include:

- car maintenance
- meals served in restaurants
- a haircut by a hairdresser.

## Who is a trader?

A trader is a person who runs a business supplying people with goods or services. Most professionals, like dentists, valuers, town planning consultants, doctors and lawyers are not considered to be traders so you cannot take action against them in the QCAT.

If your claim is about building work it will usually be dealt with by other procedures in the QCAT which are not covered in this guide.

## What is a contract?

A contract is an agreement reached between two or more people. When you offer to buy something from a trader and they accept your offer you have formed a legally binding contract.

If you're not sure whether there was a contract between you and the trader, you should get legal advice.

## Is there a time limit?

There is a time limit. Usually you have six years to make a claim. Talk to a lawyer to find out the time limit to your situation.

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# What are my legal rights when I buy goods and services?

## Do I have a warranty?

The law protects consumers when they buy goods by implying certain basic warranties. This means the goods or services you buy must:

- be of reasonable quality to be sold
- be safe and durable
- be acceptable in appearance
- do the job the trader said they would or they were advertised to do
- match any description or sample given
- be free from defects
- have spare parts and repairs available unless otherwise advertised.

The trader can provide you with extra warranties, but by the law the goods already have these basic implied warranties.

Second hand goods may not have to meet the same standards as new goods—it depends how they were sold.

## Can I ask for a refund?

If an implied warranty has been breached you are legally entitled to a refund (even if there is a sign saying ‘no refund’).

For example, you are entitled to a refund if the goods:

- are faulty, damaged, broken or will not work and you did not know about this when you bought them and did not cause the fault/damage/breakage yourself
- are unfit for the purpose they were sold for (this means the item will not do what it is supposed to do)
- are different to the description you were given (for example, the ‘leather’ lounge you bought is in fact vinyl)
- do not comply with the sample you were shown.

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# Can I resolve my dispute before going to the QCAT?

Yes. There are steps you can take to resolve your dispute without going to the QCAT.

## Step 1. Negotiate

You can try to resolve the dispute directly with the trader by calling them or visiting the store where you bought the goods or services.

Before you contact the trader to discuss the dispute you should:

- write down what you need to tell them
- have your receipts, warranty details, any guarantees and other documents handy.

When you talk to the trader you should:

- make a note of the time and date of the conversation
- take down brief details of what was said and the name of the person you spoke to.

You can follow up your call with a letter outlining your conversation and explaining anything you have agreed to.

## Step 2. Send a letter

You can write a letter to the trader telling them you have a problem with the service or goods you received and stating what you want done to fix the problem. Keep a copy of the letter for your records.

A sample letter is on page 11.

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## Who do I write to?

It is important to write your letter to the correct trading identity. The correct trading name should be on the tax invoice the trader gave you when you paid them. You can also look up the business name and Australian Business Number (ABN) on the internet by searching the Australian Securities and Investment Commission's (ASIC) Organisation and Business Names database at [www.asic.gov.au](http://www.asic.gov.au)

### **If the trader has a business name**

If the trader is an individual or a firm using a business name, you need to look up the trading name to find the correct address and all the business owners' names. You can access this information by searching the ASIC's Organisations and Business Names database—[www.asic.gov.au](http://www.asic.gov.au). You can search some information for free, while other more detailed information is available for a fee.

### **If the trader does not have a business name**

If the trader is an individual and doesn't have a business name, write your letter to the individual, using their full name and street address.

### **If the trader is a company**

If the trader is a company, you need to find out the full company name, its company number and its registered address.

You can get these details by doing a company extract search at an ASIC service centre. These searches are normally done by an information broker. To find an information broker or your nearest ASIC service centre go to [www.asic.gov.au](http://www.asic.gov.au) or call 1300 300 630. The website also has information about the latest search fees.

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## Step 3. Complaint processes and dispute resolution schemes

Some traders have a complaints process you can use to have your complaint assessed by someone in the company.

Many are part of industry schemes that can resolve disputes.

You can invite the trader to attend mediation to try and resolve the dispute without legal action. The Queensland Government provides a free mediation service through Dispute Resolution Centres throughout Queensland. For more information visit [www.justice.qld.gov.au](http://www.justice.qld.gov.au).



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## Sample letter

9 November 2021

165 Nealdon Street  
Holland Park Qld 4121  
Ph: 3264 333

The Manager  
SuperBest Quality F & W Pty Ltd  
121 Grosvenor Avenue  
Chermside Qld 4032

Dear Manager

**Re: Complaint about new couch**

I bought a new four-seater Missini couch (model number 321) from your Everton Park store on 6 November 2021 for \$1200. I immediately inspected it and found it to be faulty and unusable.

The inner springs underneath one half of the couch are broken and two poke out through the foam and cover. The right front corner of the couch, which is made of timber, is also chipped. When you sit on the couch you can feel the springs through the cushions.

As a regular customer of your store, I'm incredibly disappointed with the quality of this product and the follow-up service I have received from your staff. The couch does not match the standard of the one I was shown on display and cannot be used by my family.

I'm writing to ask you to replace the couch. If this is not possible, I'd ask that your company refund the purchase price, along with the \$40 paid in delivery costs and collect the couch at no cost to me.

It will benefit us both if we can resolve this problem without going to the Queensland Civil and Administrative Tribunal. But if you do not take action and fix the problem by 23 November 2021, I will review my options and consider taking the matter to QCAT.

Yours sincerely

*June Willis*  
June Willis

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# Making an application to the QCAT

If you can't resolve your dispute with a trader through negotiation or mediation, you can make an application to the QCAT.

## How do I start an application?

### Step 1. Fill out an application form

To make an application for a consumer and trader dispute to the QCAT you must submit a QCAT *Form 1 – Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle*.

These forms are available from the QCAT registry in Brisbane, your local Magistrates Court or you can download it from the QCAT website [www.qcat.qld.gov.au/forms](http://www.qcat.qld.gov.au/forms)

Type your answers or print neatly in black or blue pen. Make copies of the completed form.

If you are claiming against a motor dealer for selling you a car that is defective or that fails to comply with the Australian Consumer Law, or where the dealer has failed to honour a statutory or consumer warranty, you would normally file a *Form 59 – Application – Motor Vehicle Dispute* rather than an *Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle*.

This is because there are QCAT members who specialise in motor vehicle disputes and also because the maximum amount of such a claim is \$100,000, as opposed to \$25,000 for a normal consumer-trader claim. Apart from those differences, the process is largely the same.

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You will need one copy for the tribunal, one copy for you and one copy for each respondent (the person or company you are making an application against). Photocopies are acceptable, but you must sign the form before you copy it.

Where there is a space on the form for the orders you are seeking, state your claim and the amount you are claiming in one or two sentences.

Where there is a space to state your reasons for seeking those orders, explain your demand fully and simply. Do not make emotional remarks, but rather present the facts about who did what, where and when. Make sure you explain clearly what the respondent agreed to and what they failed to do as well as how you arrived at the amount of the claim. You can provide further details in the attachment. Sign each sheet of paper at the bottom.

### **Who do I name as the respondent?**

If the respondent is an individual, you name the respondent and their address in your application.

If the respondent is a business, then in your application you need to list all the business owners' names "trading as" the business's trading name.

For example, if you are making a claim against plumber Jo Bloggs whose business trades as Bloggies Plumbing, in the respondents section of your claim form you would write Jo Bloggs "trading as" Bloggies Plumbing.

If the respondent is a company, on your application you name as the respondent the company name and ABN and the registered company address.

If you are claiming against a party with a registered business name, you must get a copy of the Current Business Name Extract from ASIC, and for a company, the Current Company Extract. You should include a copy of this document when filling your paperwork in. For more information, see *A guide to naming and identifying parties in QCAT proceedings* at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)

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### **For disputes about services:**

- include the date you made the agreement with the trader (verbal or written), for example, the date you accepted a quote and rang to arrange the work
- describe the services the trader agreed to supply
- include the amount you agreed to pay
- include the services provided
- include the date you paid the trader and how much you paid.

### **For disputes about goods:**

- include the date you made an agreement with the trader (verbal or written), for example, the date you bought the goods
- describe the goods such as the brand name, model number, serial number, registered number, size and quantity
- include how much you agreed to pay
- include the date you received the goods
- include the date you paid the trader and how much you paid
- explain what the trader told you about the quality of the goods or the way they would perform.

### **For all disputes you should:**

- describe the problems you've had
- explain what you did about the problems and any repairs done (who did the repairs and when; how much they cost) or explain what needs to be done to correct the problems and include quotes you have obtained
- write down facts only - do not make emotional remarks
- if the goods cannot be repaired, include how much it will cost to replace them and attach a written quote.

Make sure your claim contains all the necessary details but is easy to understand. If there is not enough room on the form to write all the details, attach a separate sheet marked in the top centre with 'Attachment A' and write 'see attachment A' under "the reason I am seeking orders from the tribunal" section on the form.

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Make sure you mark an ‘X’ in the bracket on the claim form to show whether you are seeking payment, relief from payment, return of goods or work to be redone. Sign and date the form and any extra sheets of paper you have included.

If you or your witnesses cannot attend the QCAT on certain dates, give a list of those dates to the tribunal when you lodge your application.

## **Where do I lodge the application?**

If you are in Brisbane you may lodge your form in the Brisbane registry at:

Level 9  
BOQ Centre  
259 Queen Street  
Brisbane Qld 4000

If you are outside of Brisbane, you may lodge your form with your local Magistrates Court. To find your nearest Magistrates Court, look under “Justice and Attorney-General” in the phone book or visit [www.courts.qld.gov.au](http://www.courts.qld.gov.au)

## **Step 2. Lodge your forms and pay a fee**

Give or send the original and copies of the form including any attachments to the QCAT registry. Pay the tribunal’s application fee. The registry staff will stamp your forms and give them a number. A scale of fees is available on the QCAT website or by phoning the QCAT registry on 1300 753 228.

The tribunal will give you back one copy of the stamped forms (called a sealed copy) for each respondent and the original for you to keep for your records.

You may be eligible for a waiver of fees. To apply for a waiver of fees you will need to complete a *Form 49 – Application for waiver of fees by reason of financial hardship*. You can get this form from the registry or download it from the QCAT website.

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### **Step 3. Notify the other person about your application**

You must deliver (serve) a copy of the filed forms on the other party. You need to arrange to have one of the stamped copies of the application forms delivered to the person or business you are claiming against as soon as possible. This is called ‘serving the papers’.

You can do this yourself by post, but it is often better to pay a private process server or enforcement officer from the Magistrates Court to do it for you.

You can find a process server by:

- asking at the Magistrates Court registry
- looking in the Yellow Pages or other business directories.

The QCAT website contains a practice direction for service of documents which explains the procedure if you want to personally serve a document to the respondent(s) yourself. A practice direction is a guideline that provides more information on a specific issue involved with QCAT applications and proceedings.

Please note that for serving parties outside Queensland, you should include a notice under the *Service and Execution of Process Act 1992*. There is a *SEPA Form 1 Notice for minor civil disputes* available on the QCAT website that you can print off and attach to the front of your documents before they are served on the other party.

#### **How much will it cost to make a claim?**

Check the application fee with the QCAT registry or online at the QCAT website [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)

If you win your case the tribunal can order that you be reimbursed for the cost of:

- lodging the application
- hiring a process server
- business name or company search fee
- service fee or service provider fee for electronic filing.

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In some instances the tribunal can make an order about the legal costs of a lawyer. Generally you need permission from the tribunal to have a lawyer or other person represent you and orders permitting representation are only made in a limited number of circumstances.

## **What happens after I have lodged my application?**

### **When the respondent chooses to make a counter application**

The respondent might not agree with your case and decide to argue their side of the story.

They may choose to lodge a ‘counter application’ at the QCAT registry or their nearest Magistrates Court.

To do this they will need to prepare and lodge a *Form 8 – Minor civil dispute – counter-application*.

In a counter application, the other party outlines facts which try to disprove the original application and sets out their claim against you. For example, you stated that “the contract is a written document dated 1 July 2016”, the other party may say “I deny that the contract was a written document dated 1 July 2016 because the copy of the contract is signed and dated 1 July 2015”.

## **Reaching an agreement**

Even after you have lodged an application, it is never too late to reach agreement. Reaching agreement may save both sides time, money and inconvenience.

In most cases, if your application involves an amount of \$1500 or less, your matter will proceed directly to a hearing.

If your application involves an amount of more than \$1500, both parties (you and the respondent) will then receive a notice to attend mediation. The notice includes the date, time and location of mediation. The aim of mediation is to get all parties to reach an agreement.

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If your matter isn't settled at mediation then it will proceed to a hearing.

If you do settle the matter, your mediator will help you to let the tribunal know and confirm the terms of the agreement in writing.



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# Going to mediation

After you have lodged your application you will receive a notice to attend mediation. The aim of the mediation is to find a solution to the dispute without proceeding to a hearing.

## Be prepared

You need to bring every document, invoice, receipt, quotation or other piece of evidence that you are relying on and give them to the mediator at the mediation.

Make sure that you are organised and have evidence to support the main points of your argument.

Read the application and any documents attached to it.

It is a good idea to come to the mediation prepared to listen to the other party and to negotiate an agreement.

## Attending by telephone or videoconference

If you want to participate by phone, contact the number provided on the notice to attend mediation as soon as possible.

## Attending in person

Ensure you arrive at least 15 minutes before the start time outlined in the notice of mediation. The other party will be there too.

Find your name or case number on the electronic listing board or list displayed in the registry. Go to the room which has been set aside for your case.

You will be invited into the room once the mediator, the person responsible for conducting the mediation, is ready. The mediation may be conducted by a QCAT

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mediator or a mediator from the Dispute Resolution Centre (established by the Queensland Government to provide a free, confidential, and impartial mediation service).

The mediator will introduce themselves and ask everyone to introduce themselves. Generally the mediation is held in private and the length of the mediation will depend on the complexity of the matter.

The discussions during the mediation cannot be used or referred to at the hearing unless the parties agree.

## **During the mediation**

Be clear and to the point. Do not interrupt the other party or the mediator.

If you do not behave appropriately, you may be removed from the mediation.

The mediator acts as an independent third party and guides the participants through a structured mediation process. The mediator is not there to make a decision about who is right or wrong, but helps both parties in reaching an agreement.

## **What happens after the mediation**

If the parties reach an agreement, the mediator may record the terms of the agreement in writing and make the orders necessary to give effect to the agreement.

Each party will then sign the mediation agreement and receive a copy. A party may request the agreement be made an order of the tribunal.

An order is a decision made by the QCAT which requires someone to do something (for example, it may require a trader to repair a faulty product).

If you are not able to reach an agreement, the mediator will work with you to set out what issues are still in dispute and what issues have been resolved. If the parties agree, this will be given to the tribunal for the hearing.

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# Going to the hearing

Both parties will receive a notice of hearing which includes the time, date and location of the hearing. Be aware that a number of matters will be set for the same timeslot, and you should make sure you have enough time to attend the hearing.

The aim of the hearing is to make a final decision about your case.

It is generally in your best interest to come to the hearing if the application has been made against you. If you do not attend the hearing, the tribunal may hear and decide the matter anyway, and an order may be made against you.

At the hearing you will tell the member or adjudicator your story. Although the hearing is informal, you are expected to tell your story clearly, in proper sequence, and with enough detail to explain your case.

## Be prepared

You need to give to the tribunal all relevant documents that help support the main points of your case. You need to bring any documents, invoices, receipts, quotations and/or other pieces of evidence that you need to prove your case, and give them to the QCAT member or adjudicator at the hearing. You should make two copies of any documents you intend to give to the tribunal and have a copy for yourself and one for the other party.

## Write down the facts and supporting evidence

The QCAT member or adjudicator makes a decision by listening to the facts and looking at the evidence. Knowing the difference between facts and evidence will help you present your case clearly.

It may help to take a sheet of paper and draw a line down the middle. On the left side, write the facts you want to tell the adjudicator. On the right side write the evidence you will use to support your facts.

Facts	Evidence
Purchased Missini couch (model number 321) on 6 November 2021 for \$1200.	Copy of receipt for couch.
The couch is faulty and unusable. The inner springs underneath one half of the couch are broken and two poke out through the foam and cover. The right front corner of the couch, which is made of timber, is chipped.	Photographs showing broken springs, protruding springs, and chipped corner of couch.

Evidence can be written (in the form of sworn statements called affidavits) or verbal (when you or your witnesses give statements in the witness box).

Your own evidence, in your own words, is always helpful to your case.

## Arrange witnesses

You can ask relevant witnesses who can support your case, to attend the hearing. If they are reluctant, you can apply to the tribunal to compel them to attend by serving a *Form 38 – Application for notice requiring witness to attend or produce document or thing*, which is a notice from the tribunal demanding they attend the hearing or produce documents that could be used as evidence. A witness who fails to attend as ordered can be fined or jailed.

If your witness is reluctant, and forced to attend the hearing through the Notice to attend, this action may anger them and they may not give helpful evidence. So weigh this up carefully before you initiate a notice.

Only the QCAT can order a person to attend a hearing or to produce documents by issuing an attendance notice. The QCAT may charge a fee for this service. If a person is willing to attend or produce a document you do not need to apply to the QCAT.

The witness is not required to attend unless you give them sufficient money to pay their costs of attending, for example money to cover their reasonable transport costs.

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## Practise your presentation

It can help to practise what you want to say in front of family and friends. Have your documents in order so that when you mention one it is ready to show at the right time. If you mention an important fact that a witness can support, say that you have a witness who can talk about this matter later. Have any evidence or photographs labelled and ready to show at the right time.

Listen to what your friends say. If your story is too long, cut out unnecessary details. If listeners cannot understand a point, put in details to make it clear.

## What do I do on the day of the hearing?

### Before you arrive

- Find out the tribunal's address and check the location on a map.
- Organise transport to the tribunal, allowing time to arrive half an hour before the hearing.
- Look clean, neat and respectable.
- Bring all of your documents including the application form, affidavits and other evidence.
- Bring a pen and some notepaper to record anything you might want to remember later or say to the member or adjudicator when the appropriate moment arises (usually when they address you). It is ok to read from notes in the hearing room.
- As hearing rooms can feel daunting, especially the first time, you may appreciate the support of a friend or family member. Ask them to attend the tribunal with you.

### When you arrive

- Meet your witnesses outside the tribunal at least 15 minutes before your scheduled hearing time.
- Find your name or case number on the electronic listing board or list displayed in the registry.

- Wait for your hearing outside the hearing room.
- You will be called into the hearing room when the member or adjudicator is ready to begin.

## When you are called

- Speak clearly and follow the member or adjudicator’s instructions.
- Address the member or adjudicator in the following way:

Member	Guideline	Example
Judge	Refer to the judge as “Your Honour”	“Yes, your Honour”
Senior Member	Refer to the member as “Senior Member”	“Yes, Senior Member”
Member ( <i>including ordinary members and judicial members</i> )	Refer to the member as “Member” followed by their surname	“Yes, Member Smith”
Adjudicator	Refer to the Adjudicator as “Mr/Ms/Mrs”	“Yes, Mr Jones”
Justices of the Peace	Refer to the Justices of the Peace as “Mr/Ms/Mrs”	“Yes, Mr Jones”

Source: QCAT Practice Direction No 1 of 2014

- The member or adjudicator may ask if there is any chance you and the respondent could reach an agreement about your dispute. If the answer is yes, then you will be directed outside to negotiate privately with the other person.
- If you reach an agreement the member or adjudicator will record the terms of the agreement.
- If you cannot reach an agreement the hearing will continue before the member or adjudicator.

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# What happens at the hearing?

## You tell your story and present your evidence

Before you tell the member or adjudicator your side of the story you will be asked to swear an oath or affirm (promise) to tell the truth. It is a crime to give false evidence before the tribunal.

- The member or adjudicator may ask you questions during your presentation.
- When you have finished the respondent can ask you questions.

## Your witnesses give their evidence

- Witnesses wait outside the hearing room until they are called one at a time. Each witness is required to swear an oath or affirm to tell the truth. You can then ask your witness questions. For example, if the witness is there to support your story that you discovered that your couch was damaged and unusable:  
“do you remember when my couch was delivered and I inspected it?  
Can you tell the tribunal what happened?”.
- The member or adjudicator may question your witnesses at any time while they provide their evidence.
- When you and the member or adjudicator have finished questioning the witnesses the respondent may also question them.

## The respondent provides their evidence

- When all your witnesses have finished giving their evidence, the respondent will take an oath or affirm to tell the truth and give their side of the story.
- The member or adjudicator can question the respondent at any time. You may not interrupt but you should take notes about anything you disagree with so you can raise this with them when you are asking your questions.
- When the respondent finishes their side of the story you can ask them questions.
- The respondent’s witnesses will be called into the hearing room one at a time to give their evidence.

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- The respondent may question the witnesses at any time while they provide their evidence.
  - When the member or adjudicator and the respondent have finished questioning the respondent's witnesses you may also question them.

## **What if the hearing takes place and I or the respondent could not attend?**

You should make every attempt to attend the hearing date and time scheduled by the tribunal. If circumstances arise that prevent you from attending the hearing before the scheduled hearing date, advise the tribunal by fax or in writing as soon as possible. The respondent can also take this action. If you have a sound reason the tribunal may adjourn the hearing. A sound reason would have to be something like a medical emergency where circumstances were beyond your control.

If the hearing has already taken place, ask the tribunal for a *Form 43 – Application for reopening, correction, renewal or amendment*.

## **The member or adjudicator's decision**

After hearing everyone's evidence, the member or adjudicator will make a decision. They might:

- agree with your case
- agree with the respondent's case
- agree with only part of your application.

After the member or adjudicator has made a decision, they will make an order that you and the respondent must follow.

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# After the decision is made

If the tribunal orders the respondent to pay the debt (in whole or in part) but they do not follow the order, you can enforce the order in the Magistrates Court.

You need to lodge in the Magistrates Court a copy of the decision that has been made by the QCAT and an affidavit about the amount still owing. If any money has already been paid off the amount owing under the judgment, you will need to tell the court about that in the affidavit.

Once you have filed these documents in the Magistrates Court the decision is taken to be an order of the Magistrates Court and can be enforced in the same way as an order of the Magistrates Court.

You will need to get legal advice about enforcement.

## Appeal

Before you can appeal a civil dispute decision of the QCAT you must ask for permission from the QCAT's internal appeal tribunal to appeal the decision. To ask for permission you will need to submit a *Form 39 – Application for leave to appeal or appeal*. You can get a copy of this form from the QCAT registry or you can download it from the QCAT website. A fee may apply for this application.

You should get legal advice before appealing any decision.

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# Sample documents and forms

- Sample 1** Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle
- Sample 2** Minor civil dispute – counter-application

# Sample 1: Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle



Queensland Civil and Administrative Tribunal

Form Number 1 (version 4)  
Queensland Civil and Administrative Tribunal Act 2009 (Qld) (section 33)

For office use only	
Case number	
Date	
Registry	
Fee	
Date paid	
Receipt number	

## Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle

Application fees apply – visit [qcat.qld.gov.au/resources/fees-and-allowances](http://qcat.qld.gov.au/resources/fees-and-allowances) for details

**Part A DISPUTE DETAILS**

**What is the dispute about? (tick the appropriate box)**

Goods

Services

Property damage caused by a motor vehicle

**Part B APPLICANT'S DETAILS (full contact details must be supplied) (for multiple applicants attach details on a separate sheet)**

The applicant is the party who is making this application. If the applicant is not an individual then you must use the proper full company name, business name or the full name of the State agency or department. You must include all proper applicants.

**Name**  **ACN/ABN (if applicable)**

**Postal Address**

**Suburb**  **State/Territory**  **Postcode**

**Contact details (MUST be provided)**

Mobile Alternative number Email

**Do you identify as Aboriginal or Torres Strait Islander?**

No  Yes, Torres Strait Islander

Yes, Aboriginal  Yes, both Aboriginal and Torres Strait Islander

If you want someone to represent you in any proceedings before the Tribunal you must complete [Form 56 - Application for leave to be represented](#). You are not required to seek leave if you are a child or a person with impaired capacity. Visit the QCAT website for more information about [legal advice and representation](#).

Sample 1: Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle cont'd

# QCAT

Queensland Civil and Administrative Tribunal

## Part B

### APPLICANT'S DETAILS (continued) (full contact details must be supplied) (for multiple applicants attach details on a separate sheet)

<b>Name</b>		<b>ACN/ABN (if applicable)</b>
<input type="text"/>		<input type="text"/>
<b>Postal Address</b>		
<input type="text"/>		
<input type="text"/>		
<b>Suburb</b>	<input type="text"/>	<b>State/Territory</b> <input type="text"/> <b>Postcode</b> <input type="text"/>
<b>Contact details (MUST be provided)</b>		
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Mobile</i>	<i>Alternative number</i>	<i>Email</i>
<b>Do you identify as Aboriginal or Torres Strait Islander?</b>		
<input type="checkbox"/> No	<input type="checkbox"/> Yes, Torres Strait Islander	
<input type="checkbox"/> Yes, Aboriginal	<input type="checkbox"/> Yes, both Aboriginal and Torres Strait Islander	

## Part C

### RESPONDENT'S DETAILS (full contact details must be supplied) (for multiple respondents attach details on a separate sheet)

The respondent is the party against whom the original application was made. If the respondent is not an individual then you must use the proper full company name, business name or the full name of the State agency or department. You must include all proper respondents.

<b>Name</b>		<b>ACN/ABN (if applicable)</b>
<input type="text" value="Super Best Quality F &amp; W Pty Ltd"/>		<input type="text" value="000 111 222"/>
<b>Postal Address</b>		
<input type="text" value="121 Grovsnr Avenue"/>		
<input type="text"/>		
<b>Suburb</b>	<input type="text" value="Chernside"/>	<b>State/Territory</b> <input type="text" value="Qld"/> <b>Postcode</b> <input type="text" value="4032"/>
<b>Contact details (MUST be provided)</b>		
<input type="text" value="0704568210"/>	<input type="text"/>	<input type="text"/>
<i>Mobile</i>	<i>Alternative number</i>	<i>Email</i>
<b>NOTE:</b> A respondent who identifies as Aboriginal or Torres Strait Islander should inform the Tribunal prior to the hearing.		

Sample 1: Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle cont’d

# QCAT

Queensland Civil and Administrative Tribunal

Part C		<b>RESPONDENT'S DETAILS</b> (continued) (full contact details must be supplied) (for multiple respondents attach details on a separate sheet)	
Name		ACN/ABN (if applicable)	
<input type="text"/>		<input type="text"/>	
Postal Address			
<input type="text"/>			
<input type="text"/>			
Suburb	<input type="text"/>	State/Territory	<input type="text"/>
		Postcode	<input type="text"/>
Contact details (MUST be provided)			
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Mobile	Alternative number	Email	

Part D		<b>GENERAL DISPUTE DETAILS</b>	
<b>What are you seeking?</b>			
<input type="checkbox"/>	payment of money to me	\$	<input type="text"/>
<input checked="" type="checkbox"/>	refund of money to me	\$	1240
<input type="checkbox"/>	relief from payment of money by me	\$	<input type="text"/>
<input checked="" type="checkbox"/>	return of goods	\$	<input type="text"/>
<input type="checkbox"/>	rectification of work	\$	<input type="text"/>
<input type="checkbox"/>	costs of transporting a motor vehicle to the respondent if relevant to the claim	\$	<input type="text"/>
<input type="checkbox"/>	payment of the filing fee for this application	\$	<input type="text"/>
		<b>TOTAL</b>	\$ 1240

*Sample 1: Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle cont’d*

# QCAT

Queensland Civil and Administrative Tribunal

## Part E WHAT ARE THE REASONS THE ORDER/S SHOULD BE MADE?

Explain why you are lodging this application and why you consider you are entitled to the orders you seek from the Tribunal. If you do not provide this information your application may be dismissed. You MUST attach copies of all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.

- 1) I purchased a Missini four seater couch model number 321 from Super Best Quality F & W Pty Ltd (trading as Super Best) on 6th November 2021.
- 2) I paid \$1,200.00 plus an additional \$40.00 for delivery, by credit card.
- 3) The couch was delivered on 8 November 2021, and unpacked by the delivery men.
- 4) After they left I inspected the couch and found that the inner springs were broken in places and were poking out. The wooden frame was also chipped and you could feel the springs when you sat on the couch.
- 5) I have contacted Super Best by telephone and I've sent them two letters but they deny all responsibility and have refused to replace the couch or refund any money.

## Part F ASSISTANCE AT THE TRIBUNAL HEARING

Will you require an interpreter at the hearing?

- Yes - please specify language or Auslan:
- No

Do you have any of the following needs?

- wheelchair/mobility access       speech impairment
- hearing impairment/loss       vision impairment/loss
- other

If you have ticked any of these boxes, please provide details below.


Sample 1: Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle cont’d

# QCAT

Queensland Civil and Administrative Tribunal

## CHECKLIST

- I have completed all of the questions on this application.
- I have attached copies all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.
- I have provided the correct number of copies of the application form and attachments (*that is, a copy for each party, plus one for the Tribunal*).
- I am aware that the prescribed fee must be paid at time of lodgement.
- I am ready to proceed with this application.

## WARNING

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) makes it an offence for a person to knowingly give the registry documents containing false or misleading information. Maximum penalty for such an offence – 100 penalty units.

## Sign and date here (if more than one applicant is named, then all must sign)

The information in this application is true to the best of my knowledge.

Applicant/s sign here

Date

25/01/2022

Print your name/s here

JUNE WILLIS

## Lodgement Details

Deliver to:	Mail to:
Queensland Civil and Administrative Tribunal Floor 11, 259 Queen Street Brisbane Qld 4000 OR your local Magistrates Court. To find your local courthouse visit: <a href="https://courts.qld.gov.au/contacts/courthouses">courts.qld.gov.au/contacts/courthouses</a>	Queensland Civil and Administrative Tribunal GPO Box 1639 Brisbane Qld 4001 OR your local Magistrates Court. To find your local courthouse visit: <a href="https://courts.qld.gov.au/contacts/courthouses">courts.qld.gov.au/contacts/courthouses</a>

*Sample 1: Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle cont'd*



Queensland Civil and Administrative Tribunal

**INSTRUCTIONS FOR COMPLETING FORM 1**

**Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle**

Consumer and trader disputes are disputes against another person, trader or company resulting from a contract for the supply of goods or services up to \$25,000 (excluding interest).

Use this form if your claim is \$25,000 or less (excluding interest) and the dispute is about:

- an agreement you had with a trader about supply goods or services;
- an agreement you had with another traders about supply of goods or services
- property damage caused by a motor vehicle incident; or
- repair to a defect in a motor vehicle that is under a statutory warranty.

Do not use this form if:

- your consumer and trader dispute is for more than \$25,000;
- you want to claim a minor debt e.g. money borrowed and not repaid;
- you have debt resulting from overhanging branches; or
- you have a dispute about a bond held by the Residential Tenancies Authority (RTA)

**Who is a consumer?**

A consumer is a person who purchases good and services for their own use. Examples of goods include food, clothes, appliances and furniture. Services include car maintenance, meals served in restaurants, or haircuts by a hairdresser.

**Who is a trader?**

A trader is a person who runs a trade or commerce business supplying goods or services to consumers. A person supplying good and services outside of trade or commerce are not considered traders. For example lawyers, doctors, dentists, valuers, podiatrists and town planning consultants are not considered traders.

**Identify and naming parties**

The applicant and respondent must be named correctly. If the party is not an individual then you must use the precise/exact company name, a business name (whether it is registered or not, including real estate agencies), or the name of a State agency or department. To ensure that you are taking action against the right organisation you **MUST** include the correct ABN/ACN for the company or business name. If you do not correctly name a party you may not be able to enforce any order made against them if you succeed in your claim.

Visit the QCAT website for information on [identifying and naming the parties](#) or contact the Australian Securities and Investment Commission (ASIC) for business name and company information. A search fee may be charged.

More than one applicant or respondent can be named in an application. If there is more than one, then everyone **MUST** be named. If there is not enough space to include additional parties, you can attach the contact details (name and address details) on a separate sheet of paper to the application.

**Fees**

You must pay the prescribed application fee when lodging your application. Visit the QCAT website for [application fees](#).

Cash payments can be made in person at the QCAT Brisbane registry or your local Magistrates Court. Cheque or money order payments are to be made out to 'Department of Justice and Attorney-General'. Credit card payments can be made by submitting a [Credit card payment authorisation form](#) with your application and can only be accepted by post or in person.

## Sample 1: Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle cont'd

# QCAT

Queensland Civil and Administrative Tribunal

You may apply to QCAT for a waiver of the fee on the grounds of financial hardship. To apply, you **MUST** complete and lodge [Form 49 - Application for fee waiver or appeal fee reduction by reason of financial hardship](#). If you are eligible for a waiver you will not be required to pay the fee.

### Lodging your application form

Before you lodge your application with QCAT you must make **two (2)** photocopies of the application and all attached supporting documents and lodge these together with your original application. An extra copy is required for each additional respondent. If you file your documents in person or by post, you must include a stamped self-addressed A4 envelope.

### Giving copies to the respondent

You have **7 days** from the day you lodge your application to give ("serve") a copy of the application to each of the respondent/s. You can check the lodgement date by looking at the date stamp on your application form.

You can serve the application personally, by post or use the services of a Magistrates Court bailiff, commercial agent or process server. Visit the QCAT website for information on [serving application and documents](#).

Once you have served the respondent, you must complete [Form 9 – Affidavit of service](#). An affidavit is a statement sworn under oath/affirmation in the presence of a commissioner of declarations, justice of the peace or a lawyer. The affidavit is required to prove the application has been given to the respondent. The respondent may file an application for the same dispute - called a counter-application. To make a counter-application against this application complete [Form 8 - Minor civil dispute - counter application](#).

### Providing evidence

You **MUST** attach a copy of all relevant documents that you want to use as evidence to prove your case at the Tribunal hearing.

### Legal advice and representation

QCAT staff cannot provide legal advice. All parties involved in a matter before QCAT must usually represent themselves unless leave to be represented has been given. Information about where to seek legal advice is available at [Where to seek legal advice](#).

### Witnesses

If you have a witness whose evidence you rely upon to support your claim, that person should complete an affidavit setting out their evidence and attach it to your claim. Your witness may be required to answer questions at the hearing. If the witness cannot attend the hearing in person, they **MUST** be available by telephone.

### Withdrawing an application

An application can be withdrawn if you no longer wish to proceed to have the dispute decided by the Tribunal. An application can be withdrawn at any time prior to the final hearing and determination of the application by lodging a [Form 58 – Application for leave to withdraw an application or referral / Notice of withdrawal of application or referral](#) online. Visit the QCAT website for more information on how to [withdraw an application](#).

### Protecting your privacy

We collect your contact details to ensure QCAT proceedings comply with the *Queensland Civil and Administrative Tribunal Act 2009* (Qld). We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.

### Contact us

For information about the application process or going to the Tribunal visit the [QCAT website](#).

## Sample 2: Minor civil dispute – counter-application

# QCAT

Queensland Civil and Administrative Tribunal

Form Number 8 (version 3)  
Queensland Civil and Administrative Tribunal Rules 2009 (Qld) (rule 50)

**NOTE:** This form CANNOT be used to respond to an application for a minor debt claim (Form 3 - Application for a Minor Civil Dispute - minor debt)

For office use only	
Case number	
Date	
Registry	
Fee	
Date paid	
Receipt number	

## Minor civil dispute – counter-application

This form **MUST** be filed at the registry where the original application was filed  
Application fees apply – visit [qcat.qld.gov.au/resources/fees-and-allowances](http://qcat.qld.gov.au/resources/fees-and-allowances) for details

### Part A APPLICATION AND MATTER DETAILS

**Applicant** (the party who made the original application)  
June Willis

**Respondent** (the party against whom the original application was made)  
Super Best Quality F & W Pty Ltd

**Party against whom counter-application is made**  
Applicant

**QCAT case number**

**Location of Registry** (the QCAT registry or Magistrates Court where the original application was made)  
Brisbane

### Part B RESPONDENT'S DETAILS (your full contact details must be supplied)

The respondent is the party against whom the original application was made. If the respondent is not an individual then you must use the proper full company or full name of the State agency or department. If your business name has been named as the respondent, you must disclose the names of all persons, partners, or companies that carry on business under that business name.

**Name** Super Best Quality F & W Pty Ltd **ACN/ABN** (if applicable) 000 111 222

**Postal Address**  
121 Grovsnr Avenue

**Suburb** Cherside **State/Territory** Qld **Postcode** 4032

**Contact details** (MUST be provided)  
Mobile 0704568210 Alternative number Email

**Do you identify as Aboriginal or Torres Strait Islander?**  
 No  Yes, Torres Strait Islander  
 Yes, Aboriginal  Yes, both Aboriginal and Torres Strait Islander

If you want someone to represent you in any proceedings before the Tribunal you must complete [Form 56 – Application for leave to be represented](#). You are not required to seek leave if you are a child or a person with impaired capacity. Visit the QCAT website for more information about [legal advice and representation](#).

Sample 2: Minor civil dispute – counter-application cont'd

# QCAT

Queensland Civil and Administrative Tribunal

**Part B RESPONDENT'S DETAILS** (continued) (full contact details must be supplied)  
(for multiple respondents attach details on a separate sheet)

<b>Name</b>	<b>ACN/ABN</b> (if applicable)	
<input type="text"/>	<input type="text"/>	
<b>Postal Address</b>		
<input type="text"/>		
<input type="text"/>		
<b>Suburb</b> <input type="text"/>	<b>State/Territory</b> <input type="text"/>	<b>Postcode</b> <input type="text"/>
<b>Contact details</b> (MUST be provided)		
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Mobile</i>	<i>Alternative number</i>	<i>Email</i>

**Part C DETAILS OF THE PARTY AGAINST WHOM COUNTER-APPLICATION IS MADE**

If your counter-application is not against the party who made the original application, then you must include all proper respondents. If the respondent is not an individual then you must use the proper full company name, business name or the full name of the State agency or department.

<b>Name</b>	<b>ACN/ABN</b> (if applicable)	
<input type="text"/>	<input type="text"/>	
<b>Postal Address</b>		
<input type="text"/>		
<input type="text"/>		
<b>Suburb</b> <input type="text"/>	<b>State/Territory</b> <input type="text"/>	<b>Postcode</b> <input type="text"/>
<b>Contact details</b> (MUST be provided)		
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Mobile</i>	<i>Alternative number</i>	<i>Email</i>

**Part D WHAT ORDER/S DO YOU WANT THE TRIBUNAL TO MAKE?**

If there is insufficient space please attach additional pages.

That the application be dismissed.

<input type="text"/>

Sample 2: Minor civil dispute – counter-application cont'd

# QCAT

Queensland Civil and Administrative Tribunal

## Part E

### LIST THE REASONS FOR THIS COUNTER-APPLICATION

If there is insufficient space please attach additional pages. You MUST attach copies of all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.

- 1) On 6 November 2016 the applicant came to our Springwood store and was served by a salesperson called Jasmina.
- 2) The applicant was told that certain imported items of Italian furniture were reduced because they were damaged in transit from our Melbourne depot.
- 3) The applicant agreed to purchase a Missini couch that had been damaged. As Jasmina has not been with the business a long time she did not have the applicant sign the usual visual inspection certificate.
- 4) The applicant purchased the couch on the basis that she received a considerable discount to take into account the damage.

## Part F

### ASSISTANCE AT THE TRIBUNAL HEARING

Will you require an interpreter at the hearing?

- Yes - please specify language or Auslan:
- No

Do you have any of the following needs?

- wheelchair/mobility access       speech impairment
- hearing impairment/loss       vision impairment/loss
- other

If you have ticked any of these boxes, please provide details below.


## Sample 2: Minor civil dispute – counter-application cont'd

# QCAT

Queensland Civil and Administrative Tribunal

### CHECKLIST

- I have completed all of the questions on this application.
- I have provided the correct number of copies of the application form and attachments (*that is, a copy for each party, plus one for the Tribunal*).
- I have attached all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.
- I am aware that the prescribed fee must be paid at time of lodgement.
- I am ready to proceed with this application.

### WARNING

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) makes it an offence for a person to knowingly give the registry documents containing false or misleading information. Maximum penalty for such an offence – 100 penalty units.

### Sign and date here (if more than one applicant is named, then all must sign)

The information in this application is true to the best of my knowledge.

Applicant/s sign here

Date

05/02/2022

Print your name/s here

John William Smith - Sole Director

### Lodgement Details

**IMPORTANT: This form MUST be filed at the registry or local courthouse where the original application was filed.**

**Deliver to:**

Queensland Civil and Administrative Tribunal  
Floor 11, 259 Queen Street  
Brisbane Qld 4000  
OR  
your local Magistrates Court.  
To find your local courthouse visit:  
[courts.qld.gov.au/contacts/courthouses](https://courts.qld.gov.au/contacts/courthouses)

**Mail to:**

Queensland Civil and Administrative Tribunal  
GPO Box 1639  
Brisbane Qld 4001  
OR  
your local Magistrates Court.  
To find your local courthouse visit:  
[courts.qld.gov.au/contacts/courthouses](https://courts.qld.gov.au/contacts/courthouses)

## Sample 2: Minor civil dispute – counter-application cont'd



Queensland Civil and Administrative Tribunal

### INSTRUCTIONS FOR COMPLETING FORM 8

#### Minor civil dispute – counter-application

A counter-application is an application by the respondent against the applicant or another party. For example, in a building dispute, an applicant could be a builder who has made a claim against the respondent for outstanding money. The respondent may have a claim against the applicant for damages for defective work. The respondent's claim against the applicant is called a counter-application.

Because the response and counter-application both arise out of the same transaction, it is logical to resolve them at the same hearing. This is why you should include the facts upon which your counter-application is based. It is not compulsory to make a counter-application.

##### Identify and naming parties

The applicant and respondent must be named correctly. If the party is not an individual then you must use the precise/exact company name, a business name (whether it is registered or not, including real estate agencies), or the name of a State agency or department. To ensure that you are taking action against the right organisation you **MUST** include the correct ABN/ACN for the company or business name. If you do not correctly name a party you may not be able to enforce any order made against them if you succeed in your claim.

Visit the QCAT website for information on [identifying and naming the parties](#) or contact the Australian Securities and Investment Commission (ASIC) for business name and company information. A search fee may be charged.

More than one applicant or respondent can be named in an application. If there is more than one, then everyone **MUST** be named. If there is not enough space to include additional parties, you can attach the contact details (name and address details) on a separate sheet of paper to the application.

##### Lodging your application form

Before you lodge your application with QCAT you must make **two (2)** photocopies of the application and all attached supporting documents and lodge these together with your original application. An extra copy is required for each additional respondent. If you file your documents in person or by post, you must include a stamped self-addressed A4 envelope.

You must lodge this form in the registry where the application was lodged.

##### Giving copies

You have **7 days** from the day you lodge your application to give (serve) a copy of the application to each of the respondent/s. You can check the lodgement date by looking at the date stamp on your application form. Visit the QCAT website for information on serving application and documents.

##### Legal advice and representation

QCAT staff cannot provide legal advice. All parties involved in a matter before QCAT must usually represent themselves unless leave to be represented has been given.

Information about where to seek legal advice is available at [Where to seek legal advice](#).

##### Withdrawing an application

An application can be withdrawn if you no longer wish to proceed to have the dispute decided by the Tribunal. An application can be withdrawn at any time prior to the final hearing and determination of the application by lodging a [Form 58 – Application for leave to withdraw an application or referral / Notice of withdrawal of application or referral](#) online. Visit the QCAT website for more information on how to [withdraw an application](#).

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Sample 2: Minor civil dispute – counter-application cont’d

# QCAT

Queensland Civil and Administrative Tribunal

**Protecting your privacy**

We collect your contact details to ensure QCAT proceedings comply with the *Queensland Civil and Administrative Tribunal Act 2009* (Qld). We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.

**Contact us**

For information about the application process or going to the Tribunal visit the [QCAT website](#).

SAMPLE

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# Legal words and phrases explained

We have described these words as we use them in this guide. If you are still not sure what a certain term means, ask your lawyer to explain it to you.

**Adjudicator** — a decision maker of the Queensland Civil and Administrative Tribunal (QCAT).

**Affidavit** — a statement sworn under oath in the presence of a commissioner of declarations, justice of the peace or a lawyer.

**Affirm (affirmation)** — a spoken declaration where you promise to tell the truth when giving information or evidence to the tribunal or writing it in an affidavit. You can make an affirmation if you do not want to swear an oath on a Bible or other sacred book.

**Applicant** — a person who makes an application to the tribunal.

**Consumer** — a person who buys or hires goods or services and does not use them for business purposes.

**Contract** — an agreement between two people, which the law recognises as legally binding.

**Counter application** — a response to the application made by the respondent.

**Dispute resolution** — a procedure designed to resolve disputes between people. It usually involves people working out their difference in a non-court setting with an independent mediator helping them to come to an agreement.

**Evidence** — the proof needed to support your side of the story. Evidence is usually given verbally in the tribunal.

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**Filing documents** — see Lodging documents.

**Hearing** — where evidence is given to the tribunal from all people involved in a case and a decision is made.

**Implied warranty** — a warranty that is automatically part of a contract even though there is no specific mention of it in the contract.

**Justice of the peace** — a person recognised by law who helps with the legal process by witnessing documents, issuing search warrants and other duties. This is the person you must ask to witness you signing your affidavit.

**Legal costs** — the costs involved in taking a case to the tribunal, such as the costs of lawyers and the cost of filing documents with the tribunal.

**Lodging documents** — the process where documents are received and accepted by the tribunal. The person lodging the documents may need to pay an application fee. Usually the tribunal will stamp its seal on the filed document.

**Magistrate** — the name for the decision maker in the Magistrates Court. In civil proceedings like this one, they decide who is responsible for the damages. You call the magistrate ‘Your Honour’.

**Magistrates Court** — the court that deals with less serious offences. It is where criminal proceedings start before moving to higher courts. The Magistrates Court also deals with civil claims up to \$150,000.

**Mediation** — a dispute resolution process run by an independent third person, who helps people to reach agreement through the process of discussion and negotiation, without entering into the content of the dispute.

**Member** — a decision maker of the Queensland Civil and Administrative Tribunal (QCAT).

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**Oath** — ‘taking the oath’ means swearing on the Bible that you will tell or have told the truth. If you do not believe in the Bible, you can affirm that the content of the affidavit is true.

**Order** — an order is made by the tribunal requiring a person to do something (for example, repay a debt).

**Party** — a person involved in the dispute, eg the applicant (you) and the respondent.

**Process server** — a person who delivers or ‘serves’ tribunal documents by handing them to the person concerned.

**Rehearing** — a second hearing for the same matter.

**Respondent** — the person or business you have a claim is against.

**Served** — the process where a person is presented with official tribunal documents.

**Queensland Civil and Administrative Tribunal (QCAT)** — a tribunal dealing with disputes of \$25,000 or less between consumers and traders, or traders and traders, motor vehicle property damage claims, tenancy disputes and disputes under the Manufactured Homes (Residential Parks) Act.

**Trader** — a person, or business entity, who carries on a business of supplying goods or services and is not regarded as a professional (for example, doctors, dentists and lawyers are professionals).

**Witness** — a person who saw or heard something about your case and is called to give this evidence before the tribunal.

# Your local Legal Aid Queensland office

## **Brisbane**

44 Herschel Street  
BRISBANE Q 4000

## **Bundaberg**

3rd Floor  
WIN Tower  
Cnr Quay & Barolin Streets  
BUNDABERG Q 4670

## **Caboolture**

Ground Floor  
Kingsgate  
42 King Street  
CABOOLTURE Q 4510

## **Cairns**

Level 2  
Cairns Square Complex  
42-52 Abbott Street  
CAIRNS Q 4870

## **Inala**

Level 1  
Inala Commonwealth Offices  
20 Wirraway Parade  
INALA Q 4077

## **Ipswich**

Level 7, 117 Brisbane Street  
IPSWICH Q 4305

## **Mackay**

Ground Floor  
17 Brisbane Street  
MACKAY Q 4740

## **Maroochydore**

Ground Floor  
M1 Building  
1 Duport Avenue  
MAROOCHYDORE Q 4558

## **Mount Isa**

6 Miles Street  
MOUNT ISA Q 4825

## **Rockhampton**

Ground Floor  
35 Fitzroy Street  
ROCKHAMPTON Q 4700

## **Southport**

Level 2  
7 Bay Street  
SOUTHPORT Q 4215

## **Toowoomba**

1st Floor  
154 Hume Street  
TOOWOOMBA Q 4350

## **Townsville**

Level 4  
Northern Securities Building  
22 Walker Street  
TOWNSVILLE Q 4810

## **Woodridge**

1st Floor, Woodridge Place  
Cnr Ewing Road and  
Carmody Street  
WOODRIDGE Q 4114



**For more information about our services visit [legalaid.qld.gov.au](http://legalaid.qld.gov.au)**  
or phone 1300 65 11 88 or 1300 650 143 (Aboriginal and Torres Strait Islander Information Line)

