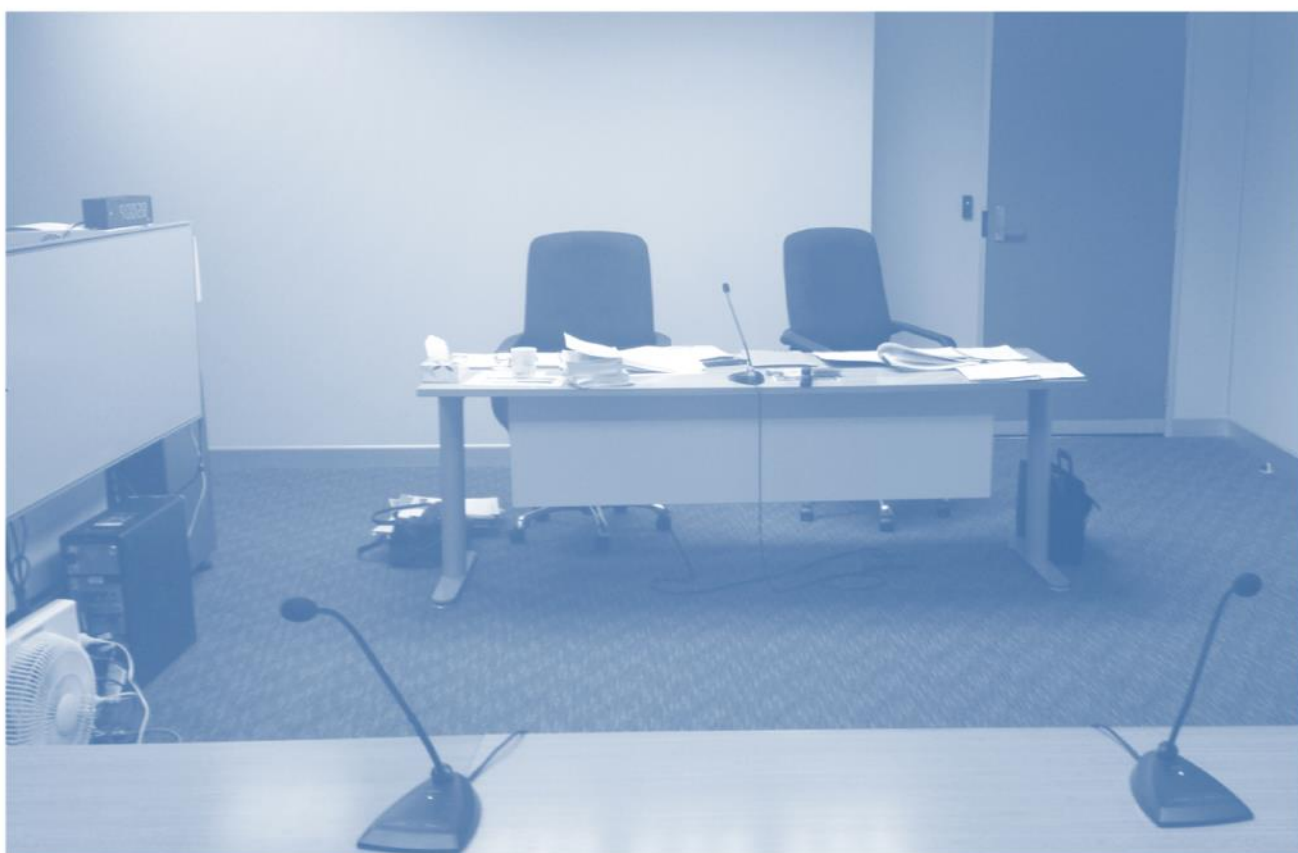


QCAT Justice of the Peace Trial

Summarised Evaluation Report



Summarised evaluation report compiled by
the Queensland Civil and Administrative
Tribunal

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The mid-trial and post-trial evaluation reports were completed by the Department of the Premier and Cabinet. Information contained in this summarised evaluation report has been taken from the executive summary contained in both mid-trial and post-trial evaluation reports. The content and findings detailed in this summarised report have not been amended, or changed from the evaluation reports.

Summarised evaluation report

1.1 Background

The Queensland Government committed \$840,000 to develop and implement a six month trial under which two Justices of the Peace (JPs) sitting together hear all minor civil dispute (MCD) matters before the Queensland Civil and Administrative Tribunal (QCAT). One member of the JP panel must be legally qualified.

The trial was restricted to applications with a value of less than \$5,000 and did not encompass urgent residential tenancy matters. The initiative operated over six months, from 3 June 2013 to 30 November 2013, and was successfully implemented in five trial sites, Brisbane, Ipswich, Maroochydore, Southport and Townsville.¹

The trial had five key objectives:

1. reduce the time taken to finalise MCD applications and improve clearance rates
2. reduce the cost of hearing MCDs within the trial scope
3. enable judicial officers to deal with more complex matters
4. recognise the voluntary contribution of JPs and provide opportunities to improve, develop and expand their role
5. contribute to government commitments to improve administration of the Queensland justice system and frontline justice services.

The QCAT JP trial was evaluated by the Department of the Premier and Cabinet in order to inform policy thinking about whether such a role for JPs be supported, extended, modified or discontinued. The evaluation was divided in two parts. The mid-trial evaluation (completed in September 2013) described the development, implementation and early operation of the trial. The post-trial evaluation (completed in March 2014) draws on administrative, survey and interview data to determine the degree to which the trial was successful in achieving its objectives. Both evaluations point to issues that will require further consideration.

1.2 The mid-trial evaluation

Evidence collected during the mid-trial evaluation shows the QCAT JP trial was implemented and operates smoothly. This is most likely the product of the high level of initiative, dedication and innovation displayed by QCAT and courthouse staff, as well as the professionalism, flexibility and commitment to the model demonstrated by the JPs involved in the implementation and operation of the trial.

¹ The trial did not commence in Townsville until 9 October, however, due to difficulty recruiting legally qualified JPs and delays in the appointment process.

Key strengths of the approach taken in implementation and operation identified during the mid-trial evaluation are:

- the breadth of the recruitment strategy
- the high standard of training produced, including the provision of practical learning opportunities and a strong focus on natural justice
- access to dedicated courtroom and QCAT facilities in support of JP panels
- a flexible scheduling process that responds quickly to scheduling requirements
- the smooth integration of trial processes with existing registry processes, driven largely by strong working relationships between staff and a demonstrated willingness to innovate in response to emerging issues
- the adjudicator helpline which has proven successful in reassuring newly recruited JPs, giving them the confidence in their own abilities, and creating a collegiate atmosphere
- JPs' demonstrated willingness to collaborate and their commitment to the initiative over the trial period
- the cost of the implementation and operation of the trial falling below budget.

There are also some elements associated with the implementation and operation of the trial model where further improvements could be made. These include:

- recruitment of legally qualified JPs
- the approach to addressing negative perceptions of the trial among some stakeholders
- the structure and content of some, limited elements of the training program
- the provision of conflicting information to operational staff on limited occasions
- the lack of support for the trial model among some staff²
- limited feedback and ongoing professional development opportunities for JP panel members.

The report makes a number of suggestions for how these issues might be addressed, including:

- implementing a recruitment strategy which better emphasises the benefits of participating in the program in a way that is consistent with JPs' personal motivations (e.g., a desire to contribute to the community, personal interest in the civil jurisdiction, professional development)
- implementing a clear and deliberate retainment strategy such as increasing the number of matters heard by JP panels or expanding their jurisdiction in recognition of their growing skills and experience, as well as providing mentoring and other programs that reward and recognise JPs' dedication to the role
- developing promotional material which highlights the impact of the trial and its successes, some of this material could be targeted towards stakeholder groups
- adjusting the training program to:
 - allow for the provision of pre-course reading materials

² Lack of support for the trial model was identified when evaluation interviews were conducted with Southport registry staff.

- provide a greater focus on administrative procedures associated with hearing matters
- formally incorporate observations of QCAT hearings in to the program
- draw on multiple assessment items to determine competency
- provide a formal debriefing opportunity, within the limits of Governor-in-Council processes, to enhance JPs' understanding of the processes underlying appointment
- providing a formal training program to staff to secure their support for the model and ensure consistency in the information provided
- providing a peer review process in order to monitor service quality and provide JPs opportunities for feedback and professional development.

1.3 The future of the trial - identified during the mid-trial evaluation

Relevant to future decision making regarding whether the QCAT JP program should be extended, modified or ceased, the mid-trial evaluation has revealed some key elements of the trial model that operate better than others. The jurisdictional limits placed on JP panel hearings, the provision of an adjudicator helpline, and relying on a traditional approach to hearings have all proven highly successful in the operational context. Adjudicators report that JPs have proven to be extraordinarily conscientious and there is emerging evidence to suggest they have the necessary skills and experience to adjudicate matters.

The model, however, places a high demand on legally qualified JPs and leaves limited room for JPs without legal qualifications to contribute to decisions in a meaningful way. For example, there is some early evidence to suggest that nominating JPs with legal qualifications as the presiding member of the panel, and therefore making them ultimately responsible for the final decision, has the potential to undervalue the contribution made by JPs without legal qualifications and may lead them to seek different opportunities to contribute to their communities. Legally qualified JPs report the pressure of being responsible for the final order, the need to collaborate on legal issues with non legally qualified JPs and, for some, the demands made of their time given the limited number of legally qualified JPs involved in the trial has, at times, made the task of managing hearings and making decisions based in law difficult and stressful. As a consequence, they have queried whether the demands made of them are reasonable. While JPs appear committed to the QCAT JP pilot for the foreseeable future, there is a risk that over time they may become burnt out or disillusioned with their roles and responsibilities under the current model. This may make it difficult to retain and recruit JP panel members in the long term and may impact on the viability of the model over time.

There are alternatives to the current model available that utilise the skills and experience of JPs within QCAT and go some way towards addressing the issues which have emerged in the current context, such as using a fee for service model.

One potential option would be to shift the responsibilities accorded JPs so that their position within QCAT better reflects their status as volunteers as well as contributing towards reducing tribunal backlogs and expanding the opportunities available to JPs to contribute to their communities. This option would involve implementing a "community referee" model where JPs would receive training in alternative dispute resolution techniques and assist Queenslanders in reaching their own common sense solutions to minor disputes. This service could be offered formally and in addition to existing mediation options within QCAT or less formally through a roaming service that is available to parties immediately prior to their hearing or on referral from a QCAT adjudicator.

This alternative model does not rely on JPs to be legally qualified and arguably draws more heavily than the current model on their skills as community representatives. A community referee model

would increase the number of mediators available to QCAT and allow matters to be referred sooner and, potentially, in more locations across Queensland. Furthermore, should JPs acting as community referees increase the success rate for resolving disputes compared to existing mediation options, fewer matters will need to be heard before QCAT adjudicators. Therefore the alternative model has the potential to save both time and money while simultaneously improving administrative and frontline services in the Queensland justice system.

That said, it is important to acknowledge the context in which the current trial model operates. QCAT appointed fewer than half the number of legally qualified JPs intended under the project management plan and, as a result, the demands placed on legally qualified JPs appointed as panel members are arguably double. It may be, therefore, that the current model has the potential to operate effectively should a sufficient number of legally qualified JPs be appointed. However, the current budget does not allow for further recruitment rounds to be conducted and, without additional funding and interest within the legal community, it is not possible to test the operational effectiveness of the model in a context where the intended number of legally qualified JPs is available. Furthermore, additional recruitment rounds are unlikely to address the underlying issues which appear to account for the lack of interest among legally qualified JPs nor does it address those issues that could make it difficult to retain legally qualified JPs already appointed as panel members. It will therefore be important to continue to monitor the impact of limited numbers of legally qualified JPs on the operational success of the model and consider alternative models that are less dependent on JPs possessing legal qualifications.

At this early stage, there is only limited evidence available regarding progress towards achieving the trial objectives. The preliminary evidence collected to date shows outcomes appear mixed. At this stage, it does not appear that time-to-hearing for MCD matters has changed as a result of the trial, although there is some early evidence to suggest adjudicators are starting to hear more complex matters. In addition, the trial does not appear to have resulted in delays or negatively impacted on Queenslanders' access to justice. The end-of-trial evaluation, due in early 2014, will provide a more detailed analysis of the outcomes of the trial matched against the policy objectives.

1.4 Post-trial evaluation

Overall, results of the post-trial evaluation suggest that the initiative made a modest positive contribution to the ongoing improvements in the administration and processing of MCD matters within QCAT. When considered with regard to the five key objectives of the trial, it was observed that:

- the time taken to finalise MCD applications and the MCD clearance rate continued to improve during the trial period, however the impact of the trial on this change was small
- JP panels are cheaper to operate matter for matter than other judicial officers, however there are some costs associated with their operation that impact on their capacity to generate savings for government, including:
 - cost of supporting panel members to perform their roles (i.e., legal advice line) (\$79,000 over six months)
 - cost of listing one fewer matter before JP panels per sitting day compared to other judicial officers (\$11,725)
 - cost of a slightly higher than expected appeal rate (\$22,185)
- the average monetary value of MCD matters dealt with by QCAT adjudicators, judicial registrars and magistrates continued to increase during the trial period, however the impact

of the trial on this change was small and judicial officers perceived their role had changed little

- JPs reported feeling recognised by QCAT for the contribution they make, however more work needs to be done to improve recognition of JPs' contribution outside QCAT, particularly within the legal community; the trial was successful in providing JPs the opportunity to improve, develop and expand their role
- there is some limited evidence to suggest the JP trial is associated with improved time, cost and operational efficiency regarding the administration of Queensland's justice system relating to MCD matters, and QCAT clients report that the quality of service provided by JP panels is equivalent to that provided by QCAT more broadly.

The trial, therefore, was entirely successful in providing JPs the opportunity to improve, develop and expand their role and partially successful in meeting all other objectives.

The key issues for consideration identified by both the mid-trial and post-trial evaluation when deciding whether to cease, retain or expand the JP trial include:

- difficulties associated with the recruitment of legally qualified JPs
- remuneration paid to JP panel members
- costs associated with the operation of the trial model (including the legal advice line) weighed against the savings generated by JP panels
- the capacity of the trial model to improve administration of MCD matters
- structure and content of some, limited elements of the training program
- stakeholders' perceptions of the trial, particularly among members of the legal community.

1.5 Moving forward

A number of options for addressing these issues were identified during the evaluations, including: changing the recruitment strategy, implementing a clear retainment strategy, providing alternative mechanisms of support to JP panel members, adjusting the training program, and publishing the evaluation findings and promotional material directly relevant to the concerns raised by stakeholders.

The mid-trial evaluation report also described in some detail an alternative trial model that would potentially address many of the issues identified. In particular, the mid-trial evaluation report proposed that QCAT implement a 'community referee' model where JPs would receive training in alternative dispute resolution techniques and assist Queenslanders in reaching their own common sense solutions to minor disputes.

The Attorney-General will review both the mid-trial and post-trial evaluation reports and consider recommendations outlined in these reports. Any changes to the scope, including further roll out options, will be reviewed and the Attorney-General will make a decision on the continuation and or expansion of the QCAT JP Trial.

