

# Annual Report 2008–09

## Commercial and Consumer Tribunal





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## Commercial and Consumer Tribunal

28 September 2009

The Honourable Cameron Dick MP  
Attorney-General and  
Minister for Industrial Relations  
Level 18  
State Law Building  
50 Ann Street  
BRISBANE QLD 4000

Dear Attorney-General

### **Commercial and Consumer Tribunal Annual Report 2008-2009**

In accordance with the requirements of section 145 of the *Commercial and Consumer Tribunal Act 2003*, I am pleased to present to you the Annual Report on the operation of the Commercial and Consumer Tribunal from 1 July 2008 to 30 June 2009.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Julie-Anne Schafer', with a large, stylized flourish on the left side.

**Julie-Anne Schafer**  
Chairperson

# Commercial and Consumer Tribunal Annual Report 2008-09

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# OVERVIEW

## Background

The Commercial and Consumer Tribunal (the Tribunal) is an independent quasi judicial decision-making body which commenced operation on 1 July 2003. The Tribunal operates under the *Commercial and Consumer Tribunal Act 2003* (CCT Act) but is given jurisdiction from a number of empowering Acts.

The Tribunal provides an accessible, cost effective avenue for industry parties and consumers to resolve a range of disputes and is the forum for persons who seek review of a range of administrative decisions. It also exercises disciplinary powers over a number of professions and trades. The Tribunal's jurisdiction includes matters relating to:

- architects
- body corporate and community management
- building and construction industry adjudicators
- building
- building certifiers
- community services
- disability services
- engineers
- liquor
- lotteries
- manufactured homes
- property agents and motor dealers
- plumbers and drainers
- residential services accreditation
- retirement villages and
- tourism services.

The empowering legislation is listed in Appendix A.

## Tribunal users

The Tribunal's users include:

- parties involved in contractual and industry related disputes, disciplinary and review proceedings
- regulatory government departments and divisions whose decisions the Tribunal reviews or who commence disciplinary proceedings in the Tribunal
- the Department of Justice and Attorney-General and other agencies that use the services of the Tribunal and the registry.

## Snapshot of achievements this year

- ☑ Improved productivity with a clearance rate of 113%
- ☑ Resolved 18% more matters than for the previous financial year
- ☑ 97% of applications received since 1 July 2008 have been resolved within 9 months
- ☑ Applications on hand reduced by 22% compared with 2007-08
- ☑ Successfully resolved 71% of domestic and commercial building matters referred to mediation
- ☑ The majority of parties were self represented

## Summary of achievements

### Outcomes for Government

- We have demonstrated independence, clarity of identity, mission and vision.
- We have provided quality outcomes because we understand user needs.
- We have efficiently and effectively discharged our legislative mandate.
- We achieved direct savings of approximately \$1,417,000 since commencement.
- We have seamlessly incorporated new jurisdictions.
- We have provided effective early dispute resolution through mediation for building and retirement village matters.
- Our administrative review decisions lead to improvements in administrative decision-making.
- Our disciplinary decisions assist in the regulation of trades, professions and the marketplace.
- Less than 1% successful appeals over 6 years.

## **How we met user needs**

- We were accessible to parties. The registry telephoned each party prior to every directions hearing to confirm attendance and afforded parties the opportunity to ask any questions.
- We conducted directions hearings and hearings by teleconference or videoconference.
- Our members conducted circuits to regional areas.
- Our Information Brochure has been translated into 5 languages and we provide a translation service through the Translating and Interpreting Service.
- Our case managers assisted parties with any inquiry about their particular jurisdiction.
- Our sessional members have expertise across different jurisdictions. Members were allocated matters which reflected their expertise.
- We gave parties written reasons for all decisions.
- We gave parties an information service, guided them with their application and assisted at directions hearings.
- We provided parties with written directions as to material to be filed and filing dates and guidelines as to enforcement.

## **What we did for stakeholders**

- Our decisions contributed to industry integrity and maintained community confidence.
- Our decisions also provided a guide to individual people as to how their dispute might be resolved.

## OUR PURPOSE

The Tribunal's purpose is to provide a just, fair, informal, speedy and affordable access to justice.

### Just

Parties file written evidence and provide oral evidence and cross-examination under oath. Decisions are made based on the evidence presented by the parties, providing a just outcome according to law.

Members apply their expertise to reach a decision which strives to be fair and just according to law. Written reasons for decisions are published to the parties and most decisions can be found on the Tribunal or AustLII (Australasian Legal Information Institute) web sites. Other decisions can be obtained from the registry.

Tribunal decisions can be appealed to the District Court on the grounds of an error of law or want of jurisdiction

### Fair

The Tribunal strives to ensure each party is treated fairly and has an equal opportunity to assert or defend their rights. The Tribunal uses its best endeavours to assist the parties to reach a mutually acceptable resolution to their dispute.

Parties attend directions hearings where directions are issued allowing each party ample opportunity to prepare their case for a hearing.

Tribunal members hear evidence from the parties and their witnesses which is recorded in accordance with the *Recording of Evidence Act 1962*. Members provide written reasons for their decisions.

### Informal

The Tribunal provides an avenue for informal dispute resolution at the early stages of the proceedings through mediation which usually occurs without the presence of legal representatives. Parties are given the opportunity to be heard at directions hearings, usually held by telephone, and to provide evidence by way of statements prior to a final hearing. The Tribunal aims to keep hearings as informal as possible. Throughout the proceedings parties are encouraged to resolve the dispute between themselves.

The hearing rooms used by the Tribunal have been designed to provide an informal setting for parties attending the Tribunal.

### Cost efficient

The applicant is required to pay the filing fee set by government. Filing fees vary for each jurisdiction and type of matter ranging between \$60 for retirement village hearings and some property agent and motor dealer matters and \$240 for domestic and commercial building disputes and review applications.

The *Commercial and Consumer Tribunal Regulation 2003* (CCT Regulations) allows a party to apply to the director to have the application fee waived. During 2008-09, 9 applications for fee waiver were received and all were granted.

For the filing fee paid, the service provided includes the cost of mediation, procedural information from registry staff, directions hearings and hearings, regardless of the number of days required, and a written decision from an experienced member.

Wherever possible, parties are encouraged to attend mediation or have settlement discussions to resolve their disputes. Mediation resolves 71% of building matters. Resolution of matters early in the proceedings is cost efficient for the parties and Government.

## **Speedy – timely resolution**

Each type of dispute is dealt with in the manner which is best suited to the dispute type within legislative requirements. Alternative dispute resolution methods such as mediation and expedited hearings are used wherever possible to assist the parties to resolve their disputes as quickly and cost effectively as possible.

Matters are progressively case managed throughout the proceedings to encourage expeditious filing of statements and documents within appropriate time frames relevant to the case.

A variety of factors impacts on the time taken for matters to be heard. Availability of resources and parties, compliance with both statutory and administrative deadlines, production of statements and submissions, completion of expert witness reports, resolution of interlocutory matters and complexity of each dispute all contribute to the time taken to resolve disputes.

### ***Mediation***

The mediation process is predominantly used for:

- domestic and minor commercial building disputes
- retirement village disputes
- body corporate and community management and manufactured homes matters, where appropriate.

Mediation is an outstanding success, saving Tribunal clients and the taxpayer significant expense.

### ***Expedited mediations / hearings***

Parties involved in domestic and minor commercial building disputes with a combined claim and counterclaim of under \$10,000 can apply for their matter to be expedited. The parties are issued with directions to exchange statements and the matter can be listed for mediation followed by a 2 hour hearing on the same day if mediation is not successful.

### ***Default and summary decisions***

When no defence has been filed within 14 days of the respondent being served with the application, the applicant can apply to the director for a decision by default if an empowering Act permits this to occur. This process can assist applicants to obtain an order in their favour for a liquidated amount. During the year 58 applications for decisions by default were received and 44 were granted, i.e. 76%.

A respondent can also apply to the Tribunal for a summary decision if it is considered the applicant has no cause of action against the respondent.

## OUR PERFORMANCE

The Tribunal has a proven record in delivering outcomes which are just, fair, informal, cost efficient and speedy. Some indicators which show the Tribunal's operations are open, effective and efficient are:

- accessible
- innovative
- easy to use and understand
- flexible and adaptable
- quality client service
- assistance to unrepresented parties
- independence
- quality decision-making

### **Accessible**

All hearings are in public. Decisions are published on the web site.

### **Affordability**

The cost of commencing an application in the Tribunal ranges from \$60 to \$240. If an applicant does not have the financial capacity to pay the regulated filing fee, they are entitled to apply to the director for the fee to be waived.

### **Information accessibility**

The Tribunal's web site provides a valuable source of information for parties and the general public to access application forms, procedures and policies. The frequently asked questions on the web site provide an easy tool for parties to understand the

Tribunal processes. Forms and handouts can also be obtained from the registry.

### **Physical accessibility**

The Tribunal is located close to buses and trains and there is parking available underneath the building. There is direct lift access to the registry and hearing rooms. The hearing rooms have been purpose built to be wheel chair accessible.

### **Geographical accessibility**

Where possible, the Tribunal minimises unnecessary attendance at the Tribunal. Directions are often issued on the papers to avoid the necessity for parties and their representatives to attend before the Tribunal. This also reduces costs for the parties.

Encouragement of telephone appearances at directions hearings ensures that the Tribunal is more accessible to parties and saves time and costs. Attendance by telephone also ensures that parties in the regions are not disadvantaged. Hearings are conducted in regional areas by members on circuit or by a member located in the regions.

The Tribunal uses video facilities at various sites throughout Queensland to enable hearings to be linked to multiple regional sites thereby further reducing costs. The videoconferencing equipment has been updated to allow multiple sites throughout the State to be connected simultaneously.

The following table shows the number of regional matters heard by a member in regional Queensland or by videoconference:

Location	Regional Hearings	Video-conference
Bowen		1
Bundaberg	4	2
Cairns	15	6
Gladstone		1
Hervey Bay		2
Mackay	4	5
Maryborough		1
Mt Isa		3
Rockhampton		4
Townsville	2	7
<b>Totals</b>	<b>25</b>	<b>32</b>

## Innovative

The Tribunal uses an innovative approach by providing:

- a high level of assistance and information to parties without providing legal advice
- a system of justice which has been easily expanded to include new jurisdictions as required
- avenues for early resolution of disputes such as mediation, default decisions and summary judgments
- dispute resolution services to other departments pursuant to Memoranda of Understanding
- active case management of files
- lateral and flexible approach to listing.

## Easy to use and understand

The application forms have been streamlined and integrated to ensure parties involved in like matters use the same forms. For example, applications to review a decision of a State agency are commenced using the same application form no matter what decision it is sought to review.

The forms have been designed to ensure they are easy for all parties to understand and complete. Application forms are accompanied by an instruction sheet for each jurisdiction to enable easy completion of the form. All forms are available on the web site. They can be completed electronically and posted or faxed to registry.

The web site is set up in accordance with Queensland Government requirements. The contents have been designed in-house with the purpose of ease of navigation and to ensure it is user-friendly for all litigants. The web site is updated in-house with the advantage that the daily hearing list, published decisions and the addition of new jurisdictions can be easily uploaded.

Each list has a series of questions and answers for the benefit of users.

## Flexible and Adaptable

The Tribunal model provides a flexible and adaptable means for resolving disputes and reviewing administrative decisions. Since the Tribunal commenced on 1 July 2003, new jurisdictions have been progressively added to the Tribunal model. Registry services for 6 additional tribunals have also been included. Further tribunals have been added in preparation for commencement of the Queensland Civil and Administrative Tribunal (QCAT).

During the year under review the Tribunal's jurisdiction was increased to 16 lists under 19 pieces of legislation. By administering these jurisdictions within one registry, service to stakeholders has been continually improved and savings have been achieved.

When implementing new jurisdictions, the staff of the Tribunal registry:

- design forms and procedures ensuring a seamless introduction of new jurisdictions
- inform stakeholders and parties of any changes through mail outs, etc.
- attend training to enhance their skills
- design and upgrade the user-friendly web site to provide the public with easy access to forms, procedures and precedent decisions.

## Quality Client Service

The Tribunal ensures that it provides quality service to its clients such as parties involved in disputes, industry groups, legal representatives, mediators etc.

Friendly and helpful procedural information is provided over the phone and at the counter. Registry officers provide as much procedural assistance as possible throughout the proceedings, ensuring that parties are fully informed of the processes. Parties are treated with dignity, courtesy and respect. Each party is telephoned by a case manager within 48 hours prior to a directions hearing.

Parties and their representatives are welcomed at hearings by monitors or case managers who are well trained in providing assistance to parties attending directions hearings and hearings.

The Tribunal's web site provides application forms, flow charts, procedural information, frequently asked questions and precedent decisions. The web site provides easy navigation for parties to get procedural assistance prior to commencing an application and also during the proceedings.

Information Sessions are provided by Registry staff. During the year senior staff provided a presentation on the Tribunal's procedures to Body Corporate and Community Management managers organised by the Community Titles Institute Queensland Limited (CTIQ).

## Assistance to unrepresented parties

Registry staff provide unrepresented parties with procedural assistance in filing an application and preparing their case for hearing. Special care is taken to avoid giving legal advice.

The Tribunal has also produced guidelines for "Legal Advice and Legal Representation of Parties" and a document titled "Sources of Legal Advice" provides a list of organisations where assistance can be provided for unrepresented litigants. Both documents can be obtained from the registry or accessed on the Tribunal web site.

Tribunal members are experienced in conducting hearings where one or more party/s are unrepresented. The Tribunal takes particular care to ensure that unrepresented parties get equal access to justice.

## Independent

Tribunal members are appointed by Governor-in-Council. Members remain independent in carrying out their statutory functions. Their decisions are not influenced by Government or others.

## Quality decision-making

The quality of decision-making is an important measure, especially when considering complex matters such as the many cases with which the Tribunal deals.

Members deliver consistent, quality decisions. Quality decision-making is measured by the parties' satisfaction with the outcome and the number of matters overturned on appeal. During this financial year only 1.2% of 688 final decisions and numerous interlocutory decisions were overturned on appeal.

# REPORTING REQUIREMENTS

## Targets

The Tribunal is a dispute resolution output of the Department of Justice and Attorney-General. The dispute resolution output targets are recorded in the Service Delivery Statements (SDS) and the Tribunal reports on those targets to the Department on a monthly basis.

In accordance with the SDS, the Tribunal has set targets for its dispute resolution services under categories of quantity, quality and timeliness. The Tribunal's targets and achievements for the year are set out below:

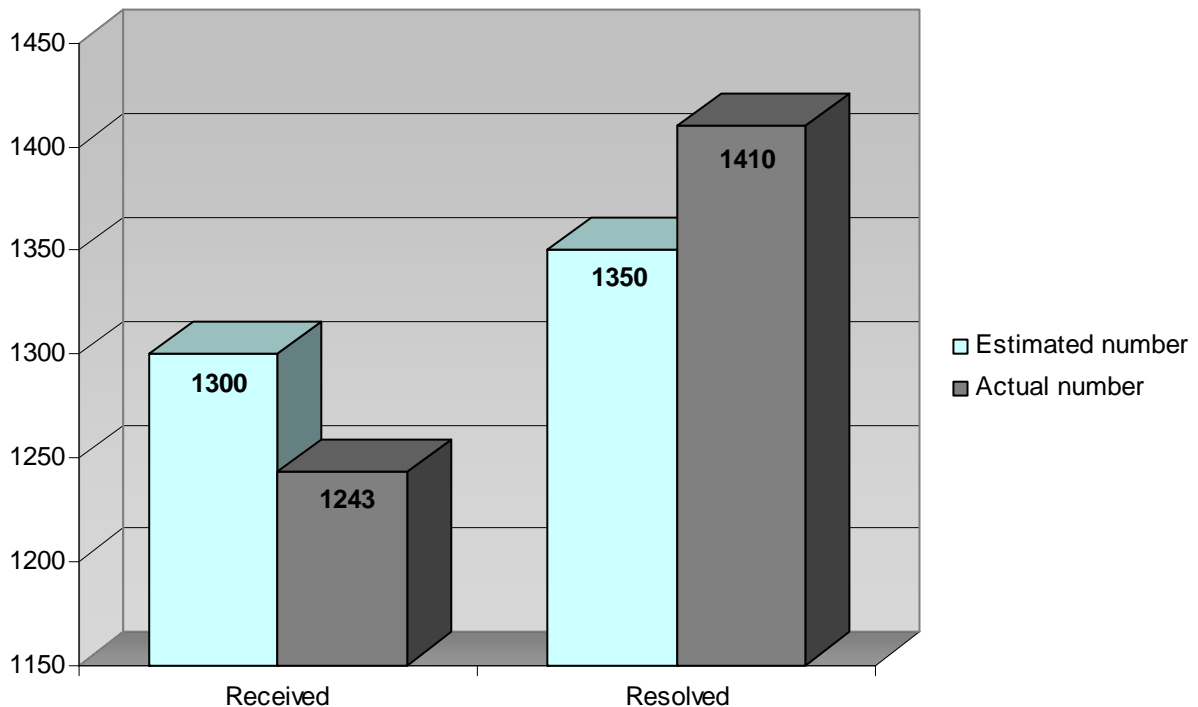
## Quantity

The target number of applications brought to the Tribunal is an estimate for the

purposes of resource planning rather than a performance target. In 2008-09, the estimated target of 1300 exceeded the actual number received of 1243.

The number of applications lodged in the Tribunal is subject to industry trends and is outside the control of the Tribunal. In 2008-09 the Tribunal's major jurisdiction, building applications, received a similar number of applications as for the previous year.

The number of applications resolved was 1410 compared with the estimated 1350. The Tribunal's focus for the year was to reduce the number of matters on hand. An outstanding result was achieved by reducing the matters on hand by 18% compared with the previous year as is evident from the chart below:



Backlog and clearance indicators need to be relevant to the complexities of the matters, the parties and/or their representatives' readiness for hearing and available resources. Some matters are more conducive to early resolution. The sum claimed does not necessarily reflect the complexity of building matters. Often there are hundreds of items in dispute, with each item requiring expert evidence.

The Tribunal has finalised 97% of the applications filed since 1 July 2008 within 270 days.

## Quality

The Tribunal's quality measure for MPS/SDS purposes relates to the number of Tribunal decisions to be overturned or altered on appeal – less than 2%.

Quality of decision-making is measured by the parties' satisfaction with the outcome and the number of matters overturned on appeal. During this financial year 1.2% of 688 final decisions and numerous interlocutory decisions were overturned on appeal.

Parties have the ability to present written evidence and oral evidence and cross-examination under oath. Decisions are made based on the evidence presented by the parties, providing a just outcome according to law.

The Tribunal has a panel of well qualified members who have expertise across a number of lists and who deliver prompt, quality decisions consistent with tribunal jurisprudence and principles. Tribunal members remain independent in carrying out their statutory functions.

## Timeliness

The Tribunal's timeliness is measured by the percentage of matters finalised.

The Tribunal's target is for 80% of its matters to be finalised within nine months. This year the Tribunal finalised 73% of all its matters within the target time frame. Finalisation of the backlog of matters meant that the target timeframe could not be achieved. However, of the 1847 applications received since 1 January 2008, 1351 were finalised and of these 1267 were finalised within 270 days equating to 94%.

Matters are finalised in the early stage of the proceedings by way of:

- Default decisions decided by the director;
- Alternative dispute resolution practices such as mediation and expedited hearings

Matters are progressively case managed throughout the proceedings to encourage expeditious filing of statements and documents within appropriate time frames relevant to each case.

A variety of factors impacts on the time taken for matters to be heard. Availability of resources and parties, compliance with both statutory and administrative deadlines, production of statements and submissions, completion of expert witness reports, resolution of interlocutory matters and complexity of each dispute all contribute to the time taken to resolve disputes.

As parties often represent themselves, members hearing disputes where at least one of the parties is not legally represented take particular care to protect the rights of that party. This extra and important detail may also contribute to the length of a hearing.

## Complaints

In an environment where parties are involved in sometimes fairly contentious disputes, parties are often disgruntled with a Tribunal outcome either as a result of an administrative decision, a mediation outcome or a Tribunal decision. The Tribunal keeps a register of complaints received regarding staff and mediators and has a written procedure for handling those complaints. Two complaints were received and dealt with during the year.

When a party is unhappy with a Tribunal decision there are avenues within the Tribunal legislation for either applying to correct a clerical mistake or to seek leave of the District Court to appeal a decision based on an error of law.

## Waste management

The Tribunal continues to ensure it effectively manages the destruction of its waste paper. It uses a document destruction company which specialises in secure collection and destruction of documents and subsequent paper recycling. The company advises its shredding and bailing system produces quality material for recycling and contributes to responsible environmental resource management.

## Women's initiatives

Female staff are well represented in the Tribunal and the registry. In the reporting year, the chairperson and 10 of the 30 sessional members were female as were 4 of the 5 senior registry management team.

## Work/Life balance

As State Government employees, registry staff are entitled to accumulate and use flexi time. The Department has initiatives to encourage staff to balance work and family responsibilities. The Tribunal also uses

casual staff to monitor hearings and assist in the registry. There are two positions within the registry that are filled on a job share basis.

## Multi-cultural initiatives

The Tribunal has implemented a protocol to ensure the provision of a service which is easily accessible to clients, regardless of their cultural, linguistic and religious backgrounds. The purpose of the Tribunal's multicultural policy is to ensure transparency for clients and to assist registry staff when dealing with multicultural issues at all stages of the proceedings.

When there is a need to engage professional interpreters, registry contacts the Department of Immigration and Multicultural and Indigenous Affairs Translating and Interpreting Service. Parties attending the registry who experience difficulty with understanding forms or procedural information have access to the Queensland Interpreter Cards. This enables staff to contact an interpreter to assist in translation.

A link to the State Government's Translating and Interpreting Service has also been placed on the web site ensuring all parties have access to information about the Tribunal and its procedures.

The Tribunal's Quick Guide brochure has been translated into seven languages to assist non English speaking parties to understand the Tribunal procedures. The Tribunal relied upon a departmental survey to identify the most common languages for translation of the Quick Guide.

## Travel

Members and registry staff travel to regional areas in Queensland to conduct hearings when videoconferencing is not practicable. No overseas or inter-State travel was undertaken by the Tribunal or registry staff.

## **Operational plan (goals and outputs)**

The Tribunal's operational plan sets out the goals or key strategies for the 2008-09 year and the actions required to achieve those outputs. The plan is in line with the Department's strategic plan. The Tribunal's core business is to provide an environment of dispute management, and to seamlessly implement new jurisdictions.

## **Recordkeeping**

The Tribunal has an agency-specific Retention and Disposal Schedule for public records as required by the State Archivist under the authority of section 13 of the *Public Records Act 2002*. Records that met disposal criteria prior to 31/12/2008 have been disposed of in accordance with QDAN 586V1. Records that meet disposal criteria identified in the General Retention and Disposal Schedule for Administrative Records (GRDS) have been destroyed after appropriate authorisation.

## **Codes of conduct and ethics**

The Department's code of conduct outlines the appropriate standards of official conduct based upon the ethics identified in the *Public Sector Ethics Act 1994* which are – respect for the law and the system of government; respect for persons; integrity; diligence; economy and efficiency. Staff are made aware of the code of conduct.

A code of conduct which provides a minimum ethical and practice standard for mediation as well as mediator guidelines have been circulated to the Tribunal mediators.

## **Education and training**

New staff attend in-house induction and are encouraged to participate in on-line induction on the Department's intranet site.

The Department also provides a training program which is accessible for all registry employees. Staff are encouraged to attend any relevant training in the Department to improve their knowledge and skills.

Regular in-house and on the job training is provided by senior officers and case managers to ensure all staff are multi-skilled wherever possible. Formal presentations are delivered to registry staff on specific legislation and new jurisdictions as they are implemented to ensure they have a broad understanding of Tribunal requirements.

The chairperson mentors Tribunal members and provides updates on changes to legislation or relevant decisions relating to matters that fall within their area of expertise.

## **Business Continuity and Risk Register**

The Tribunal has developed a Business Continuity Plan to ensure its records are protected in case of disaster.

A risk register has been compiled to identify and list all risks that may impact on the activity of the Tribunal. A list of potential risks has been created and properly analysed and assessed to ensure adequate measures of control have been created. A risk treatment plan has been implemented prioritising the risks that require attention, identifying the treatments that require implementation, and identifying who is responsible for implementing particular treatments.

## **EFTPOS/Credit card payments**

The Tribunal has an EFTPOS machine installed at the registry counter to facilitate payment of application fees and other regulated fees by Visa, MasterCard or EFTPOS. Payments can also be made through the mail using the EFTPOS form which can be downloaded from the web site or obtained from the registry.

## **Search procedures**

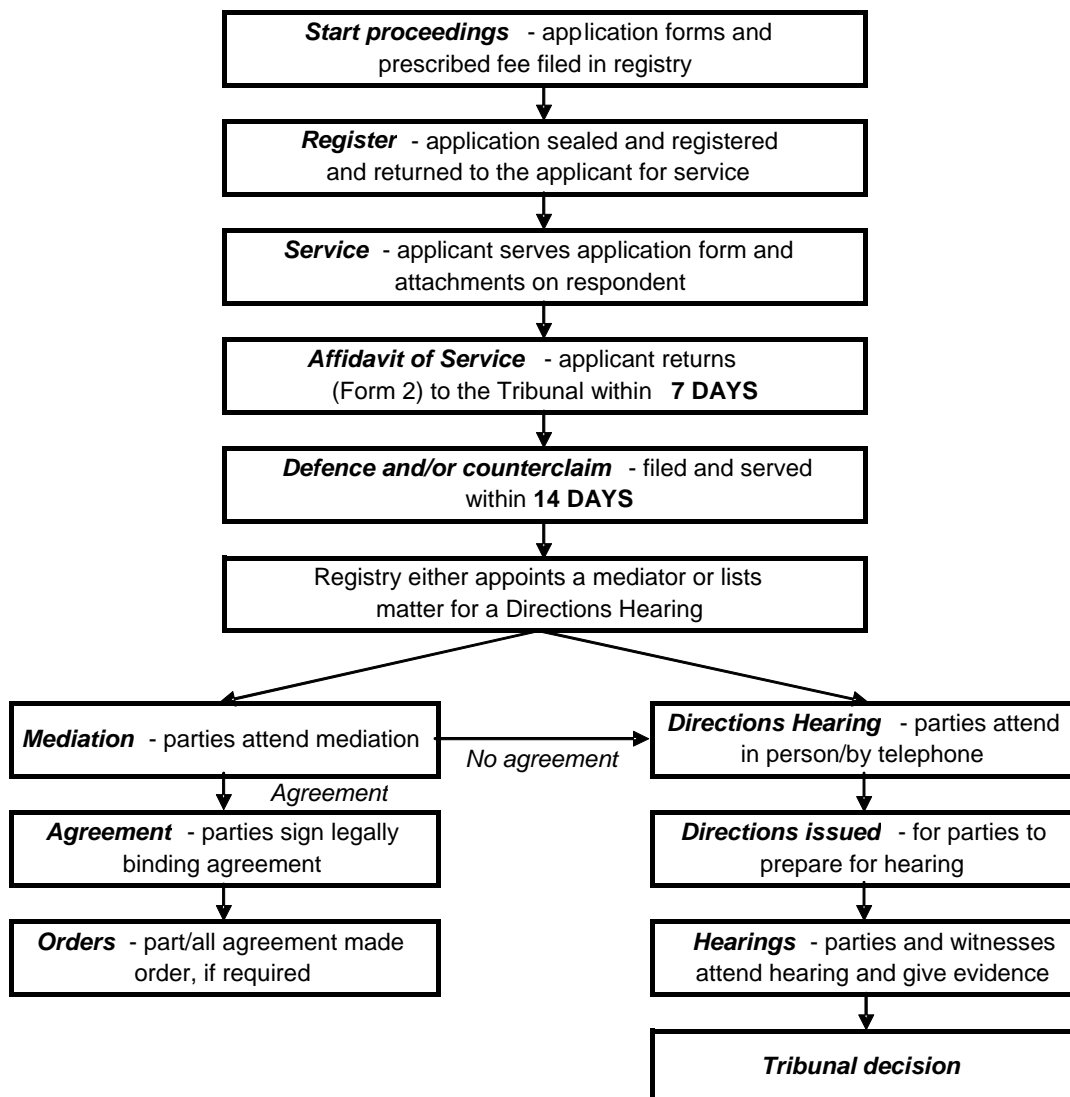
A person is entitled to apply to the director to inspect a document on the public register of the Tribunal. There is a regulated fee to inspect the register or documents and any associated photocopying fees. A search form is provided to assist in the process.

## Procedures and practices

The Tribunal's procedures and practices for each jurisdiction are set out on the web site at [www.tribunals.qld.gov.au](http://www.tribunals.qld.gov.au). Brochures and hand outs regarding the Tribunal processes can also be obtained from the registry. Registry staff answer any enquiries regarding procedures and matters before the Tribunal. However, they are not permitted to provide legal advice.

The chairperson has developed policies which are readily available on the Tribunal web site for costs; expert evidence telephone evidence; private audio/digital recording of proceedings by news agencies.

The following flow chart sets out the **standard** procedure for progressing a matter through the Tribunal:



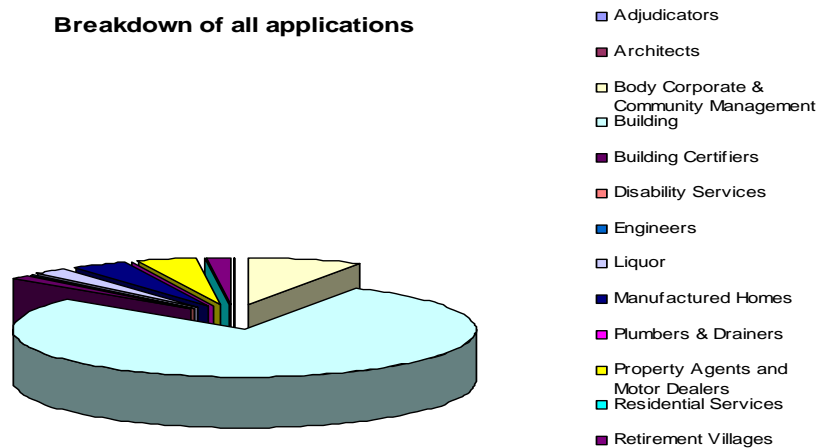
Note: mediation is generally only used for building and retirement village disputes and occasionally for body corporate and manufactured homes matters.

## TRIBUNAL CASES OVERALL

<b>Caseload comparisons</b>			
		<b>2007-08</b>	<b>2008-09</b>
<b>Architects</b>	Received	2	0
	Resolved	1	1
	On hand	1	0
<b>Body Corporate and Community Management</b>	Received	58	101
	Resolved	41	83
	On hand	17	35
<b>Building</b>	Received	966	971
	Resolved	910	1119
	On hand	650	502
<b>Building Certifiers</b>	Received	22	15
	Resolved	16	22
	On hand	16	9
<b>Disability Services</b>	Received	1	1
	Resolved	0	2
	On hand	1	0
<b>Engineers</b>	Received	1	4
	Resolved	12	6
	On hand	3	1
<b>Liquor</b>	Received	28	29
	Resolved	26	34
	On hand	8	3
<b>Manufactured Homes</b>	Received	32	48
	Resolved	40	42
	On hand	13	19
<b>Plumbers and Drainers</b>	Received	0	1
	Resolved	1	1
	On hand	0	0
<b>Property Agents and Motor Dealers</b>	Received	98	52
	Resolved	120	76
	On hand	41	17
<b>Retirement Villages</b>	Received	27	21
	Resolved	30	24
	On hand	11	8

The Tribunal received a total of 1243 applications during 2008-09

**Breakdown of all applications**



### Total applications received and resolved 2008-09

List	Received	Resolution method			Total resolved
		Mediation	Hearings	Withdrawn/ settled	
Adjudicators	0	0	0	0	0
Architects	0	0	1	0	1
Body Corporate and Community Management	101	2	67	14	83
Building	971	248	479	392	1119
Building Certifiers	15	0	14	8	22
Disability Services	1	0	1	1	2
Engineers	4	0	5	1	6
Liquor	29	0	19	15	34
Manufactured Homes	48	0	29	13	42
Plumbers & Drainers	1	0	1	0	1
Property Agents and Motor Dealers	52	0	62	14	76
Residential Services	0	0	0	0	0
Retirement Villages	21	5	10	9	24
Tourism Services	0	0	0	0	0
<b>Totals</b>	<b>1243</b>	<b>255</b>	<b>688</b>	<b>467</b>	<b>1410</b>

There were 594 applications on hand compared with 744 matters on hand at 30 June 2008.

## LISTS

The Tribunal is empowered to deal with 16 different commercial and consumer jurisdictions under 19 separate pieces of legislation. Each jurisdiction is identified as a "List".

The Tribunal heard and determined cases relating to civil disputes as well as applications to review decisions including administrative review and disciplinary matters from a range of Government departments. Directors-General on behalf of other departments have entered into agreements for fees for service in respect of proceedings handled by the Tribunal under the respective empowering Acts relating to architects, building certifiers, community services, disability services, engineers and plumbers and drainers.

Information in relation to the major jurisdictional lists follows.

## BODY CORPORATE AND COMMUNITY MANAGEMENT LIST

Since 1 July 2007 the Tribunal has had jurisdiction to deal with body corporate and community management matters under the *Body Corporate and Community Management Act 1997* (BCCM Act). The Tribunal has the power to determine:

- Lot Entitlement Adjustments under section 48 of the BCCM Act
- Complex matters under sections 129, 133, 135, 149 and 178 of the BCCM Act
- Appeals of adjudicators' orders under section 289 of the BCCM Act.

## Procedures

Procedures for conducting body corporate and community management matters are set out on the Tribunal web site and can be obtained from the registry. Frequently asked questions can also be accessed on the web site.

## Applications received and resolved

Matter type	Received	Resolution method			Total resolved
		Mediation	Hearings	Withdrawn/ settled	
Lot entitlement adjustments	74	0	49	9	58
Complex matters	17	2	5	5	12
Appeals of adjudicators	10	0	13	0	13
<b>Totals</b>	<b>101</b>	<b>2</b>	<b>67</b>	<b>14</b>	<b>83</b>

There has been a 74% increase in matters received this year compared with the previous year.

## Timeliness

Of the 83 matters resolved during the year, 93% were resolved within the target time of 9 months. There were 35 matters on hand at 30 June 2009.

## Regional matters

The majority of body corporate and community management applications are from the Gold Coast and Sunshine Coast areas. Any applications received from regions such as Cairns were heard by videoconference.

## Legal representation

Self-representation varies depending upon the type of matter.

Matter type	% Self-Represented		
	Applicant	1 <sup>st</sup> Respondent	2 <sup>nd</sup> Respondent
Lot entitlement adjustments	78%	72%	100%
Complex matters	50%	25%	100%
Appeals of adjudicators	54%	46%	67%

## Appeals

The Tribunal is not aware of any appeals filed in the courts against decisions of the Tribunal relating to body corporate and community management matters.

## BUILDING CERTIFIERS LIST

Under section 205 of the *Building Act 1975*, the Tribunal has the power to:

- review decisions of the Queensland Building Services Authority
- conduct disciplinary proceedings brought by Local Government or the BSA against private building certifiers.

## Procedures

Building certifier matters are dealt with in a similar manner as other building review and disciplinary matters.

## Applications received and resolved

There were 15 building certifier review applications received during the year. Fourteen matters were determined by hearing and 8 matters were either settled or withdrawn by the parties. There were 9 matters on hand as at 30 June 2009.

There were no disciplinary matters received or resolved.

## **BUILDING LIST**

Under the *Domestic Building Contracts Act 2000* and *Queensland Building Services Authority Act 1991*, the Tribunal has the power to:

- determine domestic and minor commercial (<\$50k) building work and major commercial building work (>\$50k with consent of both parties)
- review decisions of the Queensland Building Services Authority (BSA)
- conduct disciplinary proceedings against licensees and non-licensees
- issue stop orders on builders
- determine BSA debt recovery applications
- conduct public examinations.

### **Procedures**

The Tribunal uses procedures and practices which best suit the type of application received.

Domestic and commercial building disputes which constitute the majority of Tribunal matters can be time-consuming and emotive. The Tribunal initially uses alternative dispute resolution methods such as expedited hearings and mediation which resolve approximately 74% of the matters at an early stage of the proceedings.

When matters are not resolved at mediation directions are issued for the parties to prepare statements of evidence. A directions hearing may be listed to consider applications in the proceedings and to check readiness of hearing. All parties are personally phoned by case managers prior to a directions hearing. A hearing is listed before a Tribunal member once the parties have prepared their evidence for hearing.

### **Queensland Building Services Authority (BSA)**

The Tribunal also reviews decisions of the BSA and conducts disciplinary proceedings brought by the BSA against building contractors. Public examinations and debt recovery for the BSA statutory insurance scheme are also conducted by the Tribunal.

### **Inspectors**

The Tribunal uses BSA Inspectors to assist in the speedy resolution of domestic and commercial disputes. BSA Inspectors provide considerable assistance to parties and to the Tribunal.

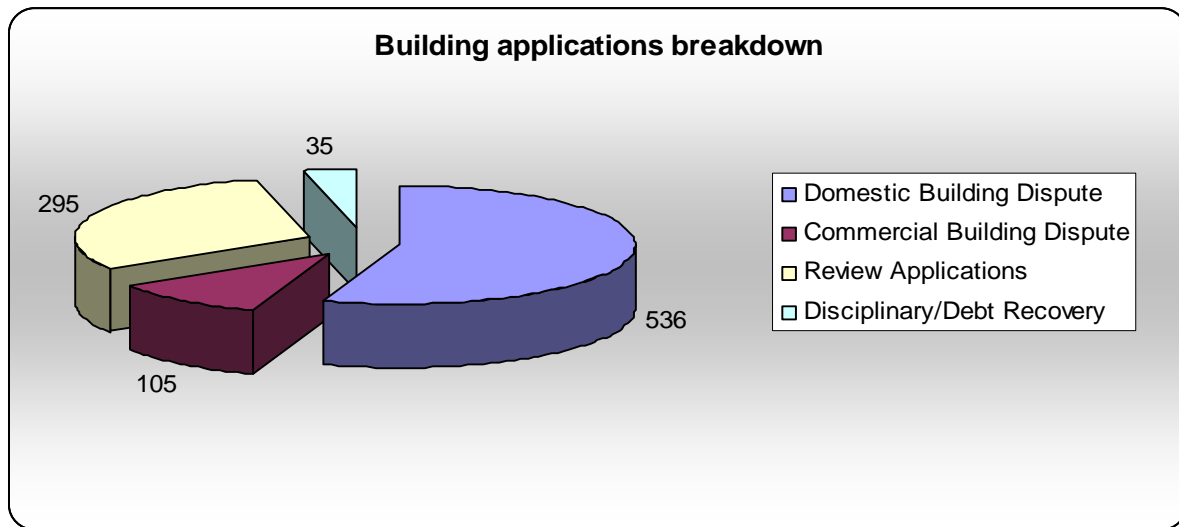
Often a mediation agreement is reached or an order is made by the Tribunal requiring one party to pay money into the Tribunal's trust account pending rectification of certain building work to an acceptable standard of a BSA Inspector. The money can then be released to the contractor when a BSA Inspector certifies the work has been satisfactorily completed.

### **Applications received**

There were 650 cases carried forward from the 2007-08 year and 971 building applications received during this financial year. The number of building applications received increased by 1% compared with the previous year, ie 24 more domestic building disputes and 15 more review applications. The past few years have seen a larger number of cases carried over and matters becoming more complex with parties sometimes requiring multiple hearing days, in the order of 5, 10 or 15 days.

The applications received comprised:

- 536 domestic building disputes
- 105 commercial building disputes
- 295 review applications
- 35 disciplinary and debt recovery applications.



## Applications resolved

The Tribunal resolved a total of 1119 building disputes (an increase of 22% from the previous year) as follows:

- 392 applications were either withdrawn or settled by the parties during the process
- 248 (71%) of building disputes referred to mediation were successfully mediated
- 479 applications were determined by Tribunal members at hearings
- 502 applications were on hand as at 30 June 2009.

Matter type	Received	Resolution method			Total resolved
		Mediation	Hearings	Withdrawn/ settled	
Domestic building disputes	536	204	192	155	553
Commercial building disputes	105	39	51	37	127
Review applications	295	3	207	190	400
Disciplinary / Debt recovery	35	2	29	10	41
<b>Totals</b>	<b>971</b>	<b>248</b>	<b>479</b>	<b>392</b>	<b>1121</b>

## Timeliness

Overall 78% of domestic and commercial building disputes were resolved within the target of 9 months. Only 59% of review applications were resolved within the target time.

Availability of parties, compliance with both statutory and administrative deadlines, production of statements and submissions, completion of expert witness reports, resolution of interlocutory matters and complexity of each dispute all contribute to the time taken to resolve disputes.

Matter type	Resolved within target times			Decisions handed down 30 days
	Mediation	Hearings	Withdrawn/ settled	
Domestic building disputes	95%	60%	81%	78%
Minor commercial building disputes	94%	62%	77%	62%
Review applications	33%	57%	61%	69%
Disciplinary	N/A	91%	100%	87%

\* Only 3 review applications were mediated. Review matters are not normally conducive to resolution by mediation. Mediation is not usually scheduled, if at all, until the latter stage of the proceedings.

## Regional matters

The Tribunal conducts hearings by videoconferencing wherever possible to ensure matters are conducted in a timely fashion. Where videoconferencing is not possible, appropriate regional circuits are conducted. Regional hearings were conducted in the following locations:

Location	No. hearings	No. days	No. circuits
Cairns	14	26	10
Bundaberg	4	7	4
Mackay	4	6	3
Townsville	1	3	1
<b>Totals</b>	<b>23</b>	<b>42</b>	<b>18</b>

## Legal representation

The CCT Act requires parties to represent themselves unless the interests of justice require otherwise. The majority of parties in domestic building disputes are self-represented at hearings.

Matter type	% Self-Represented		
	Applicant	1 <sup>st</sup> Respondent	2 <sup>nd</sup> Respondent
Domestic building disputes	73%	77%	67%
Minor commercial building disputes	65%	63%	74%
Review applications	47%	1%*	70%
Disciplinary	0*	85%	50%
Debt recovery	0*	50%	100%

\*In review, disciplinary and debt recovery matters the BSA is generally represented by legally qualified BSA officers.

## Appeals

Under section 100 of the CCT Act parties are entitled to seek leave of the District Court to appeal a decision based on an error of law or want of jurisdiction.

There were two successful appeals and one allowed in part for the Building List during the year when 479 final decisions and numerous interlocutory decisions were given by the Tribunal.

## ENGINEERS LIST

Under the *Professional Engineers Act 2002*, the Tribunal has the power to review decisions of the Board of Professional Engineers of Queensland in relation to:

- registration, renewal or restoration of registration
- cautioned or reprimanded persons.

The Tribunal can also conduct disciplinary proceedings to decide whether a disciplinary ground is established.

### Procedures

These matters have proven to require extended preparation times. Usually the respondent engages the services of experts to prepare statements of evidence prior to the hearing and experts confer.

### Applications received and resolved

Three disciplinary applications were carried over from the previous year and one new application was received. All matters were heard and one matter was waiting for a decision to be delivered.

Three review applications were brought against the Board of Professional Engineers during the year. One application was dismissed, one was withdrawn and one was received in June 2009.

### Timeliness

All review applications were determined within target timeframes.

25% of the engineering disciplinary matters were resolved within target time frames. These matters are generally strongly contested and proceedings are protracted as parties require extended times for filing statements and documents and the provision of expert reports. These matters also invariably require multiple hearing days.

### Regional matters

There was one engineering hearing conducted in Townsville.

### Legal representation

The Board of Professional Engineers is always represented and 25% of engineers were self-represented at Tribunal hearings.

### Appeals

Two disciplinary matters were successfully appealed relating to the Engineers List.

## LIQUOR LIST

Under the *Liquor Act 1992* and *Wine Industry Act 1994*, the Tribunal has the power to review decisions of the chief executive of the Department in relation to:

- grant or refusal of a liquor licence or permit
- renewal of extended hours permits
- licence conditions
- suspension or surrender of licences or permits
- other reviewable decisions.

### Procedures

Liquor review applications are dealt with in a similar manner to other review applications. A liquor review is by way of a rehearing on the evidence that was before the chief executive when the decision was made. However, the Tribunal may grant leave for the appeal to be based on new evidence in particular circumstances.

Once an appeal is filed, the chief executive provides a list of people who made an application, submission or objection to the liquor licence. The Tribunal then writes to each of the objectors setting out their involvement in the proceedings. When the matter is listed for a hearing the notice is sent to the objectors.

### Applications received and resolved

There were 29 liquor review applications lodged during the year with 8 applications carried over from the previous year.

In total the Tribunal resolved 34 of these applications; 19 were determined by hearing and 15 were either settled or withdrawn by the parties. There were only 3 matters on hand as at 30 June 2009.

### Timeliness

The Tribunal resolved 97% of liquor matters within the target time frames.

### Regional matters

The Tribunal used either videoconferencing facilities or telephone facilities to conduct proceedings which ensured a cheaper and quicker resolution of these applications.

### Legal representation

Approximately 44% of applicants, 3% of first respondents (chief executive of the Department) and 83% of second respondents were self-represented at hearings.

### Appeals

There was one successful appeal relating to the Liquor List.

## MANUFACTURED HOMES LIST

Under the *Manufactured Homes (Residential Parks) Act 2003* the Tribunal has the power to decide disputes between park owners and home owners.

The Act provides rights to an estimated 10,000 residents living in residential parks and is intended to create a fair balance between the rights and needs of owners and operators.

Park owners are required to have written site agreements with standard terms and any agreed special conditions. There are disclosure requirements and procedures for changing rent under which operators can seek increases and owners can seek decreases.

Home owners' committees have been established to liaise with park owners on behalf of residents.

### Procedures

The process of dispute resolution is similar to other lists.

There is a large number of precedent decisions available to assist parties with knowledge of the Act and the limited jurisdiction which the Tribunal has. These decisions can be used by parties to help them resolve their disputes.

### Applications received and resolved

Forty-eight manufactured homes applications were received during the year with 13 applications carried over from the previous year.

There were 29 matters determined by hearing and 13 matters were either settled or withdrawn by the parties. There were 19 matters on hand as at 30 June 2009.

### Timeliness

88% of manufactured home matters were resolved within target times.

### Regional matters

All regional hearings in the Manufactured Homes List were conducted by videoconference.

### Legal representation

86% of applicants, 74% of first respondents and 17% of second respondents were self-represented in manufactured homes hearings.

### Appeals

There were no successful appeals relating to the Manufactured Homes List.

# PROPERTY AGENTS AND MOTOR DEALERS LIST

Under the *Property Agents and Motor Dealers Act 2000* (PAMD Act), the Tribunal has the power to:

- decide disciplinary proceedings against licensees and registered employees
- review administrative decisions of the chief executive of the Department of Tourism, Fair Trading and Wine Industry Development
- decide claims against the claim fund greater than \$10,000.

## Procedures

Claims against the fund are initially made to the chief executive of the Department who then refers them to the Tribunal for determination.

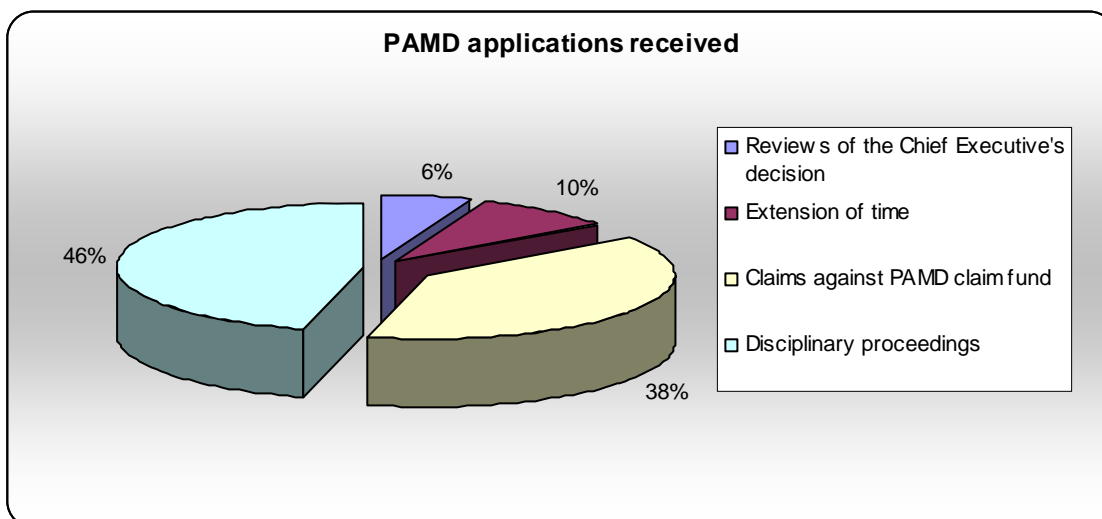
Applications for review and extensions of time follow the process of disputes in other lists.

Disciplinary proceedings are commenced by the chief executive against licensees or registered employees for contravention of the PAMD Act. The Tribunal decides if appropriate grounds exist for disciplinary action and may then make appropriate orders.

## Applications received

There were 52 applications received in 2008-09 under the PAMD Act comprising:

- 3 applications for review of the chief executive's decisions
- 5 extension of time applications
- 20 claims against the Property Agents and Motor Dealers Claim Fund
- 23 disciplinary proceedings
- 1 marketeering application



## Applications resolved

There were 41 matters carried over from the previous year. 62 matters were determined by hearing and 14 matters were either settled or withdrawn by the parties. There were 17 matters on hand as at 30 June 2009.

Matter type	Received	Resolution method			Total resolved
		Mediation	Hearings	Withdrawn/ settled	
Claims against the fund	20	-	34	6	40
Review	3	-	2	1	3
Extension of time	5	-	5	-	5
Disciplinary	23	-	20	7	27
Marketteering	1	-	1	0	1
<b>Totals</b>	<b>52</b>		<b>62</b>	<b>14</b>	<b>76</b>

## Timeliness

76% of all Property Agent and Motor Dealer matters were resolved within 9 months.

Claims against the fund are originally lodged with the Office of Fair Trading who investigate and process the application. Problems encountered with these applications include difficulty in locating all parties, or parties may be de-registered or become bankrupt.

Matter type	Resolved within target times			Decisions handed down 30 days
	Mediation	Hearings	Withdrawn/ Settled	
Claims against the fund	—	56%	67%	56%
Review	—	50%	100%	50%
Extension of time	—	100%	N/A	100%
Disciplinary	-	95%	57%	80%

## Legal representation

The following table indicates the majority of applicants in Property Agent and Motor Dealer matters are self-represented at hearings.

Matter type	% Self-Represented		
	Applicant	1 <sup>st</sup> Respondent	2 <sup>nd</sup> Respondent
Claims against the fund	65%	70%	59%
Review	100%	33%*	N/A
Extension of time	60%	80%	50%
Disciplinary	0%*	63%	45%

\*The chief executive is usually represented by in-house lawyers.

## Appeals

There were two appeals allowed in part relating to the Property Agents and Motor Dealers List.

## RETIREMENT VILLAGES LIST

Under the *Retirement Villages Act 1999*, the Tribunal has the power to decide disputes between residents and scheme operators.

### Procedures

The *Retirement Villages Act 1999* sets out a 3 step dispute resolution process of:

1. Negotiation within the village
2. Application for mediation - dispute notice - a party can only file a dispute notice referring the matter to mediation after the parties have first attempted to resolve the dispute in the village
3. Application for hearing - if the mediation is not successful an application can then be made to the Tribunal for a hearing.

### Applications received

There were 11 retirement village applications carried over from 2008-09 and 21 were received during 2008-09, 14 of which were applications for mediation and 7 were applications for hearing.

### Applications resolved

There were 24 retirement village matters resolved this year. Five matters were successfully mediated, 10 matters were determined by hearing and 9 matters were withdrawn. There were 8 matters on hand as at 30 June 2009.

Matter type	Received	Resolution method			Total finalised
		Mediation	Hearings	Withdrawn/ settled	
Mediation applications	14	5	2	7*	14
Hearing applications	7	0	8	2	10
<b>Totals</b>	<b>21</b>	<b>5</b>	<b>10</b>	<b>9</b>	<b>14</b>

\*Once mediation has been held, if the parties wish to proceed with their dispute they must file a new application and the mediation application is withdrawn.

### Timeliness

75% of matters in the Retirement Villages List were resolved within the target of 9 months. These applications are often complex and take time to resolve, particularly where groups of residents join together to take 'class' type actions.

Matter type	Resolved within target times			Decisions handed down 30 days
	Mediation	Hearings	Withdrawn/ settled	
Mediation applications	100%	N/A	100%	N/A
Hearing applications	N/A	25%	100%	50%

## Regional matters

The Tribunal either uses mediators in the regions to avoid the necessity for parties to travel to Brisbane or conducts mediations by teleconference or videoconference. Parties can also attend directions hearings by telephone. In June 2009 a senior mediator travelled to Rockhampton to assist the parties to resolve their dispute by mediation. Any hearings for regional areas were conducted by videoconference.

## Legal representation

Parties generally are not legally represented at the mediation stage of the proceedings. Tribunal members are experienced in assisting applicants and respondents who are self-represented at hearings. Approximately 60% of applicants and no respondents were self-represented in matters that went to a hearing.

## Appeals

There were two successful appeals relating to the Retirement Villages List.

## MISCELLANEOUS LISTS

Although the Tribunal has jurisdiction in relation to the following Lists few applications were received or resolved during the year.

### ARCHITECTS LIST

Under section 121 of the *Architects Act 2002*, the Tribunal has the power to review decisions of the Board of Architects of Queensland (the Board) in relation to:

- registration, renewal or restoration of registration
- complaints where the Board has decided to take no further action.

The Tribunal can also conduct disciplinary proceedings to decide whether a disciplinary ground is established.

One disciplinary matter carried over from the previous year was determined by hearing.

No review applications were received during this financial year.

### BUILDING AND CONSTRUCTION INDUSTRY ADJUDICATORS

Under section 97 of the *Building & Construction Industry Payments Act 2004*, the Tribunal's jurisdiction is limited to reviewing decisions in relation to adjudicator registration. A person who has applied for a review of a decision to become a registered adjudicator under the Act and is dissatisfied with the registrar's review decision may apply to the Tribunal for a review of the review decision.

No applications were received during this financial year.

## COMMUNITY SERVICES LIST

Under section 97 of the *Community Services Act 2007*, the Tribunal has jurisdiction to review decisions of the chief executive which relate to:

- refusing approval as an approved service provider under section 16(1) of the Act
- refusing to cancel approval as an approved service provider under section 19(1) of the Act
- cancelling approval as an approved service provider under section 20(1) of the Act
- suspending or stopping assistance to a funded service provider for not complying with a compliance notice under section 32(8) of the Act
- appointing an interim manager for a funded service provider under section 69 of the Act.

The review/appeal to the Tribunal is by way of a rehearing on the evidence that was before the chief executive.

No applications were received during this financial year.

## DISABILITY SERVICES LIST

Under the *Disability Services Act 2006*, the Tribunal has the power to review decisions in relation to:

- criminal history screening for persons engaged by a non-government service provider. A person may apply for review of certain decisions under section 108(1)(a), 108(1)(b) and 113(2)(a) of the Act
- refusing approval as an approved non-government service provider under section 46(3) of the Act
- cancelling approval as an approved non-government service provider under section 48(3) of the Act
- refusing approval as an approved non-government service provider under section 49(1) of the Act
- cancelling or suspending funding of a funded non-government service provider for not complying with a compliance notice under section 161(8) of the Act
- the appointment of an interim manager for a funded non-government service provider under section 169 of the Act.

One application was carried over from 2008 and another was received this financial year. Both applications have been resolved.

## LOTTERIES LIST

Under section 132 of the *Lotteries Act 1997* the chief executive's decision may be appealed by the former lottery operator to the Tribunal. In combination, these amendments are designed to allow the chief executive to facilitate claims for monetary and non-monetary prizes where possible and appropriate.

No applications were received during this financial year.

## **PLUMBERS AND DRAINERS LIST**

Under the *Plumbing and Drainage Act 2002*, the Tribunal has the power to review decisions of the Plumbers and Drainers Board relating to plumbing and drainage licences and on-site sewerage facilities. Any application for review must be made within 28 days after the applicant or licensee is given an information notice or becomes aware of the decision.

One review application was received and resolved by hearing during this financial year.

## **RESIDENTIAL SERVICES ACCREDITATION LIST**

Under section 159 of the *Residential Services (Accreditation) Act 2002* an interested person may apply to the Tribunal to appeal the chief executive's review decision within 28 days after receiving a decision notice for a review decision.

Also, under section 157 of the *Residential Services (Accreditation) Act 2002* an interested person may apply to the Tribunal to stay the operation of the chief executive's decision.

No applications were received during this financial year.

## **TOURISM LIST**

Under section 85 of the *Tourism Services Act 2003* a person who applies for registration as an inbound tour operator may apply to the Tribunal to review the commissioner's decision to:

- suspend the person's registration; or
- cancel the person's registration; or
- refuse to renew the person's registration; or
- impose a condition on the person's registration; or
- refuse to replace the person's registration.

No applications were received during this financial year.

### Members

The Tribunal commenced the year with 27 sessional members. An additional 3 sessional members were appointed in November 2008 and another member was appointed in January 2009. Two members resigned and another member was appointed to the District Court. A complete list of Tribunal members is provided at **Appendix A**.

The chairperson and members are appointed by Governor in Council upon recommendation of the Minister or Attorney-General. A person eligible for appointment as a member of the Tribunal must be a lawyer of at least 5 years standing or have a high level of experience and knowledge of the business or industry to which an empowering Act relates.

Members are remunerated in accordance with the Department of Industrial Relations Remuneration for Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities.

The chairperson and members of the Tribunal conduct directions hearings and hear and determine cases not resolved by alternative dispute resolution in a flexible and efficient manner. In some circumstances, with the consent of the parties, the members determine matters on the papers without conducting a hearing.

### The Registry

The registry provides administrative services for the range of Commercial and Consumer Tribunal jurisdictions. It also administers matters relating to the Racing Appeals Tribunal, the Publications Appeals Tribunal, the Films Appeals Tribunal and the Computer Games and Images Tribunal.

In January 2009, the administrative services for the Misconduct Tribunal and Fire Panel of Referees were also transferred to the CCT registry in preparation for commencement of the Queensland Civil and Administrative Tribunal (QCAT).

The Tribunal registry has an establishment of 26 full time employees and 6 casual employees who provide a service to the chairperson and members of the Tribunal, the Department, other State government departments and its clients and stakeholders.

The director, manager, 2 principal officers and 2 senior case officers lead a team of registry and hearing room staff and continue to develop procedures and provide staff training to ensure changes to legislation and new jurisdictions are seamlessly implemented. The Tribunal registry organisation chart is provided at **Appendix C**.

Registry staff have been appointed taking into consideration their skills and experience as well as equal employment opportunity policies and procedures. The table below sets out gender, equal employment and multi-cultural balances of the registry staff as at 30 June 2009.

Throughout the year registry staff have attended many information sessions in preparation for transition to the new QCAT proposed to commence on 1 December 2009. Permanent staff have been allocated positions within QCAT.

Level	Total Staff	Male	Female	NESB*	ATSI#
SO1	1	1			
AO7	1		1		
AO6	2		2		
AO5	2		2		
AO4	8		8	2	
AO3	3		3		
AO2	7	2	5	1	1
Casuals	6		6		
<b>Total</b>	<b>29</b>	<b>3</b>	<b>26</b>	<b>3</b>	<b>1</b>

Note: The table reflects staff at 30 June 2009, not necessarily permanent employees.

\* NESB – non English speaking background  
# ATSI – Aboriginal and Torres Strait Islander

## Mediators

Tribunal mediators have continued to achieve a high success rate for assisting parties to resolve their dispute at the early stages of the proceedings. Mediators achieved a success rate of 71% in domestic and commercial building disputes referred to mediation, negotiating settlements worth a total of approximately \$2.4m.

Retirement village matters are also referred to mediation as the first step in the proceedings with 36% of the matters being successfully mediated.

The Tribunal uses a panel of approximately 40 qualified and experienced mediators who are located throughout the State. All mediators appointed by the Tribunal must have mediation qualifications and are selected to ensure they have the right mix of mediation skills and subject knowledge. This has contributed significantly to the high success rate of mediated outcomes.

A code of conduct applies to all mediators and they follow a set of guidelines. Mediators are external contractors employed on a case by case basis and have no interest in the outcome of any mediation. They have no allegiance to either party.

The Tribunal continually reviews and improves its procedures. Through newsletters and workshops we remind mediators of their responsibility to avoid feelings of bias. Half-yearly newsletters are distributed to mediators to ensure they are kept up-to-date with information about mediation and jurisdictional issues.

In any mediation the decision to settle is often like weighing up the benefits and disadvantages of proceeding with the matter by way of a Tribunal hearing as opposed to reaching an agreed settlement. Mediated agreements, in many cases, are outcomes the parties can live with rather than outcomes parties are completely satisfied with.

## FINANCIAL INFORMATION

The Tribunal is a statutory body under the Department of Justice and Attorney-General and is subject to, and complies with, the requirements of the *Financial Administration and Audit Act 1977* and the *Financial Management Standard 1977*.

The Tribunal's operating expenditure for 2008-09 was \$4,070,536, more than the projected operating expenditure of \$3,686,000.

\$86,251 related to administering the Racing Appeals Tribunal.

\$19,729 related to administering the Misconduct Tribunal from January 2009.

The funding was expended on non-discretionary operating costs including:

- employee expenses
- member fees

- mediator fees
- accommodation costs
- necessary supplies and services
- circuit hearings to regional Queensland.

Administered revenue collected from dispute resolution Tribunal fees totalled \$139,473 at financial year-end. This revenue was transferred to the Consolidated Fund in accordance with the *Financial Administration and Audit Act 1977*.

The Tribunal's financial information for 2008-09 is provided at Appendix C.

The budget for the Tribunal is also included under the Output Statements and Financial Statements of the Service Delivery Statements for the Department of Justice and Attorney-General.

## INFORMATION TECHNOLOGY

The Tribunal's information technology management is controlled by the Department of Justice and Attorney-General. The Tribunal has an in-house officer who provides information technology assistance to staff and resolves any technologic problems with hearing room equipment.

The FTR Gold recording system has provided an effective and efficient means for ensuring that all directions hearings and hearings are recorded. CD's of the recordings can be obtained from the registry for a minimal cost and transcripts are outsourced.

### Case management system

CaseWorks is the Tribunal's case management system which contains all applications received and includes scheduling of hearings, file tracking and merging of letters, notices and reports and assists in the management of the Tribunal's case files.

This CaseWorks system has been adopted by QCAT as the preferred database. It continues to be updated and improved to match the growing needs of the Tribunal and future requirements for QCAT. The system can be updated in-house which allows the seamless introduction of new jurisdictions to the Tribunal.

## Video and telephone conferencing

In order to maintain a cost efficient dispute resolution environment and to provide the opportunity for participation by parties in regional centres, the Tribunal uses teleconference and videoconference facilities wherever possible. This provides the ability for regional hearings to be conducted from the Tribunal premises in lieu of member(s) and a hearing room monitor having to travel to regional destinations.

A large plasma screen and video conferencing facilities allow for up to 3

simultaneous regional connections to be made to the Tribunal. Over the past year approximately 32 hearings were conducted by videoconference.

Telephone conferences can be conducted from all hearing rooms using polycoms which provide better quality of audio, quality of recording and clarity for the parties to the call.

A “smart board” technology allows an interface with a computer workstation for computer files such as PowerPoint presentations. This has been used by Tribunal staff for conferences, training and meetings.

## FORECAST 2009-10

The Commercial and Consumer Tribunal will continue to provide an effective avenue for resolving commercial and consumer disputes, administrative review and disciplinary proceedings until it is replaced by QCAT.

The workload of the Tribunal is subject to the industry trends for the relevant jurisdictions administered by the Tribunal. The number of applications received in the Building List is dependent upon activity in the building sector which can be buoyant.

It is anticipated that in the year ahead the Tribunal will experience many changes due to the amalgamation of State government civil and administrative tribunals. It is also expected that the Tribunal’s jurisdiction will continue to expand as smaller Tribunals are transitioned into the current structure prior to the commencement of QCAT.

From 1 July 2009 the Tribunal will have jurisdiction to hear appeals against reviewed decisions under the *Guide, Hearing and Assistance Dogs Act 2009*. It is proposed that a number of other smaller tribunals will be transitioned into the Tribunal prior to commencement of QCAT.

The Tribunal will continue to face challenges to efficiently and effectively resolve disputes within its financial and resource limits.

## Queensland Civil and Administrative Tribunal

In June 2008 an expert panel (the Honourable Glen Williams AO QC, Peter Applegarth SC (as he then was) and Julie-Anne Schafer – CCT chairperson) recommended that the Tribunal be included in the new Queensland Civil and Administrative Tribunal along with 17 other tribunals.

A project team in conjunction with officers from each of the tribunals have been progressively working towards the proposed implementation date of 1 December 2009. The *Queensland Civil and Administrative Tribunal Act 2009* and the *Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009* were passed on 26 June 2009.

## Appendix A – Empowering Legislation

The Tribunal has jurisdiction to deal with matters it is empowered to deal with under the CCT Act and the following empowering legislation:

- *Architects Act 2002*
- *Body Corporate and Community Management Act 1997*
- *Building Act 1975*
- *Building and Construction Industry Payments Act 2004*
- *Community Services Act 2007*
- *Disability Services Act 2006*
- *Domestic Building Contracts Act 2000*
- *Lotteries Act 1997*
- *Liquor Act 1992*
- *Manufactured Homes (Residential Parks) Act 2003*
- *Pest Management Act 2001*
- *Plumbing and Drainage Act 2002*
- *Professional Engineers Act 2002*
- *Property Agents and Motor Dealers Act 2000*
- *Queensland Building Services Authority Act 1991*
- *Residential Services (Accreditation) Act 2002*
- *Retirement Villages Act 1999*
- *Tourism Services Act 2003*
- *Wine Industry Act 1994.*

### **New Legislation**

The *Guide, Hearing and Assistance Dogs Act 2009* was assented to on 23 February 2009 and proclaimed to commence on 1 July 2009.

## Appendix B – Members

As at 30 June 2009, the Tribunal membership consisted of:

Name	Position	Status	From	To
Ms Brydget Barker-Hudson	Member	Part Time	07/06/2007	30/06/2009
Mr Kenneth Barlow	Member	Part Time	07/06/2007	30/06/2009
Mr Thomas J Bradley	Member	Part Time	01/07/2004	30/06/2009
Ms Sharon A Christensen	Member	Part Time	07/06/2007	30/06/2009
Mr Christopher Coyne	Member	Part Time	05/10/2007	30/06/2009
Mr Alexander Crawford	Member	Part Time	14/11/2008	31/12/2009
Mr Kiernan Dorney QC	Member	Part Time	07/06/2007	30/06/2009
Mr Paul Favell	Member	Part Time	30/01/2008	30/01/2011
Mr Keith Geraghty	Member	Part Time	14/11/2008	31/12/2009
Ms Myrtle Green OAM	Member	Part Time	01/07/2004	30/06/2009
Mr Robert Gregory	Member	Part Time	07/06/2007	30/06/2009
Mr Russell Hanson QC	Member	Part Time	05/10/2006	30/06/2009
Ms Catherine Heyworth-Smith	Member	Part Time	07/06/2007	30/06/2009
Mr Peter Lohrisch	Member	Full Time	01/07/2004	30/06/2009
Justice Kenneth G Mackenzie	Member	Part Time	01/01/2009	31/12/2009
Dr Elena Marchetti	Member	Part Time	07/06/2007	30/06/2009
Mr Dean J Morzone	Member	Part Time	01/07/2004	30/06/2009
Ms Fay Margaret O'Donnell	Member	Part Time	01/07/2004	30/06/2009
Mr Richard Oliver	Member	Part Time	31/01/2008	30/01/2011
Mr Phillip Pennington	Member	Part Time	07/06/2007	30/06/2009
Ms Karyn Reardon	Member	Part Time	31/01/2008	30/01/2011
Ms Judith Reid	Member	Part Time	14/11/2008	31/12/2009
Ms Julie-Anne Schafer	Chairperson	Full Time	01/07/2005	31/12/2009
Mr Stephen Sheaffe	Member	Part Time	31/01/2008	30/01/2011
Ms Glenice Spender	Member	Part Time	01/07/2004	30/06/2009
Mr Andrew Swindells	Member	Part Time	05/10/2006	30/06/2009
Hon James Thomas AM QC	Member	Part Time	31/01/2008	30/01/2011
Mr Peter Toohey	Member	Part Time	01/07/2004	30/06/2009
Ms Yvonne Zardani OAM	Member	Part Time	01/07/2004	30/06/2009

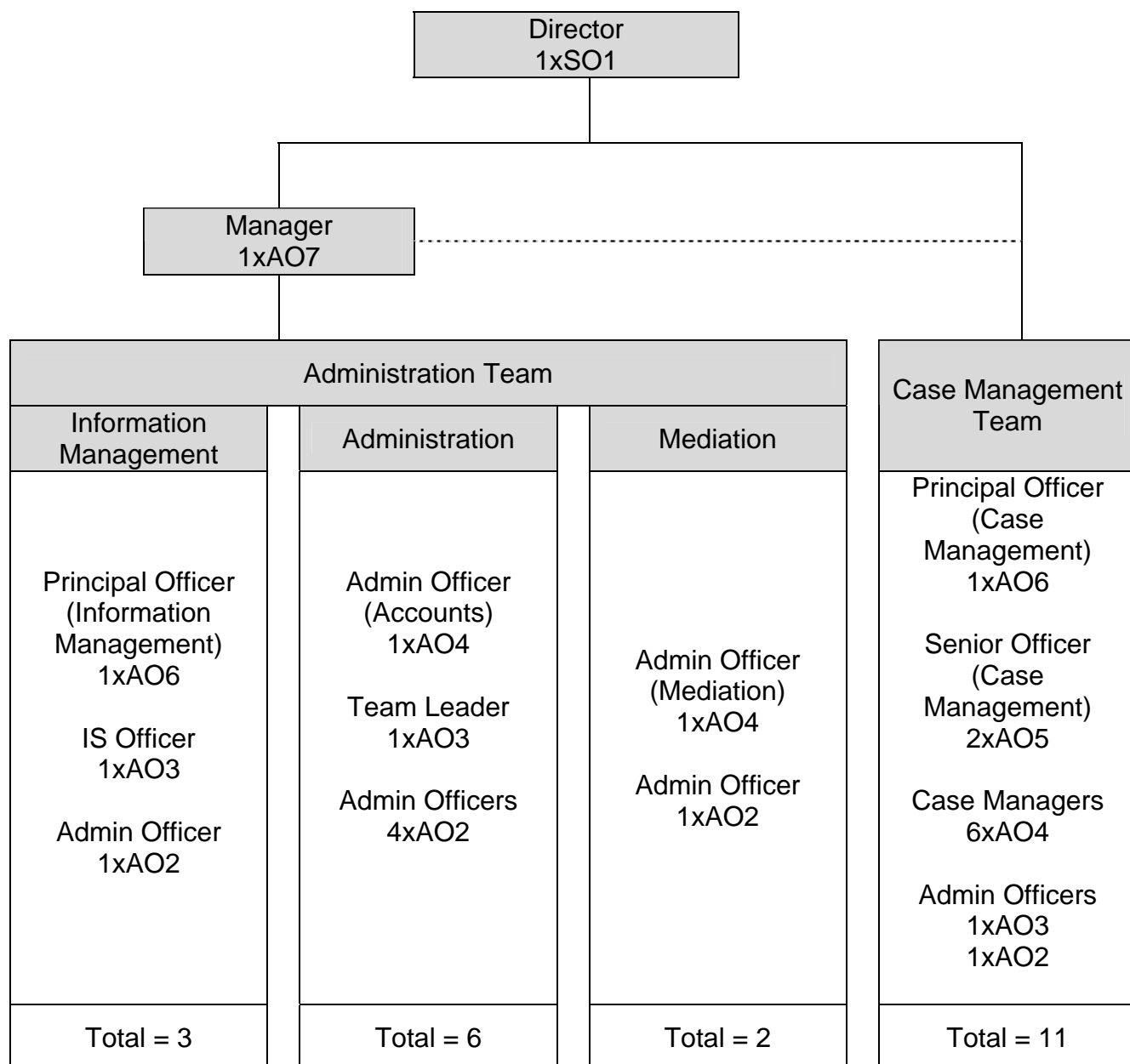
## Appendix C – Financial Report

	2008-09 \$'000	2007-08 \$'000
<b>Income</b>		
Output revenue	3,660	3,646
User charges	140	29
Fees and fines	10	240
Grants and other contributions	-	-
<b>Total Income</b>	<b>3,810</b>	<b>3,915</b>
<b>Expenses</b>		
Employee expenses	1,987	1,661
Supplies and services	425	489
Tribunal member fees	769	484
Mediator payments	237	225
Accommodation costs	553	709
Depreciation and amortisation	87	80
Audit fees	-	1
Gifts	-	1
Other expenses	13	1
<b>Total Expenses</b>	<b>4,071</b>	<b>3,651</b>
Transfers of administered revenue to Government	150	244
<b>Net surplus/(deficit)</b>	<b>-261</b>	<b>20</b>

### Notes:

1. This is an unaudited extract from the audited financial statements of the Department of Justice and Attorney-General.
2. Revenue includes moneys collected by the Tribunal for:
  - application fees and associated costs which are returned to Government under relevant legislation
  - Racing Appeals Tribunal fees which are retained to offset expenses for the Tribunal and
  - administrative services under memoranda of understanding with other Government departments.
3. \$86,251 of the expenses (including \$33k in members' fees) was required for administering the Racing Appeals Tribunal.
4. \$19,729 of the expenses (including \$12k in members' fees) was required for administering the Misconduct Tribunal.
5. The deficit of \$261k consists of:
  - a. Budget allocation of -\$28k for property services for June 2009 compared to an actual expense of \$55k, giving an overspend of \$83k
  - b. Accrual of \$64k for member payments incurred in 2009-09 but not yet claimed
  - c. Unfunded employment on-costs for sessional member payments of \$45k
  - d. \$69k for wages and salaries contributing to reduction of the number of matters on hand.

## Appendix D – Commercial and Consumer Tribunal Registry Structure



## Tribunal Contact Information

Telephone no: (07) 3247 3333  
Facsimile no: (07) 3247 3300  
Email: [cct@tribunals.qld.gov.au](mailto:cct@tribunals.qld.gov.au)

### Registry location:

Level 11  
259 Queen Street  
Brisbane Qld 4000

### Postal address:

GPO Box 2469  
Brisbane Qld 4001

### Registry hours:

Monday to Friday  
8:45am to 4:45pm

### Web site:

[www.tribunals.qld.gov.au](http://www.tribunals.qld.gov.au)

### Parking:

Closest parking – Kings Car Park in basement of building –  
access via Elizabeth Street

### Taxi:

Queen Street in front of Macarthur Central

### Public transport:

The Tribunal is within easy walking distance from major city bus stops  
and Central Railway Station

### How to get more copies of the Tribunal Annual Report:

- telephone (07) 3247 3333 or
- visit the Tribunal web site at [www.tribunals.qld.gov.au](http://www.tribunals.qld.gov.au).

### How to start an application in the Tribunal:

- complete and file copies of the application form together with the regulated filing fee
- to obtain the relevant forms:
  - telephone the registry on (07) 3247 3333 or
  - visit the Tribunal web site at [www.tribunals.qld.gov.au](http://www.tribunals.qld.gov.au).

