



Alternative Dispute Resolution

- QCAT coordinates the delivery of mediation services for minor civil disputes via internal mediators and the Dispute Resolution Branch (DRB) of the Department of Justice and Attorney-General (DJAG)
- mediation is a key element of the QCAT dispute resolution process. Mediators provide parties with a quick, informal, fair and cost-effective resolution of disputes
- QCAT offers other dispute resolution services including mediation in other jurisdictions, compulsory conferences and hybrid hearings

Civil, Administrative and Disciplinary

- civil matters including building disputes; body corporate and community management; tree disputes; manufactured homes and retirement villages; and retail shop leases
- review of administrative decisions
- occupational regulation and disciplinary matters including teachers, health professionals and legal practitioners

Human Rights

- guardianship and administration for adults
- anti-discrimination
- children and young people matters and education matters

Minor civil disputes

- debts
- consumer and trader disputes
- property damage caused by the use of a motor vehicle
- repairs to a defect in a motor vehicle
- dividing fence disputes under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* and the *Building Act 1975*
- residential tenancy matters

Appeals

- appeals are heard by an internal Appeal Tribunal
- not every decision of QCAT can be appealed
- appeal processes may differ depending on who made the original decision

Alternative Dispute Resolution



Our year

Performance

- delivered settlement rate of 52 per cent for mediation of minor civil disputes
- supported delivery of a 69 per cent settlement rate for mediation of other matters
- delivered high satisfaction ratings of Tribunal users for both conduct of mediations (94 per cent) and outcomes from the mediation process (71 per cent)

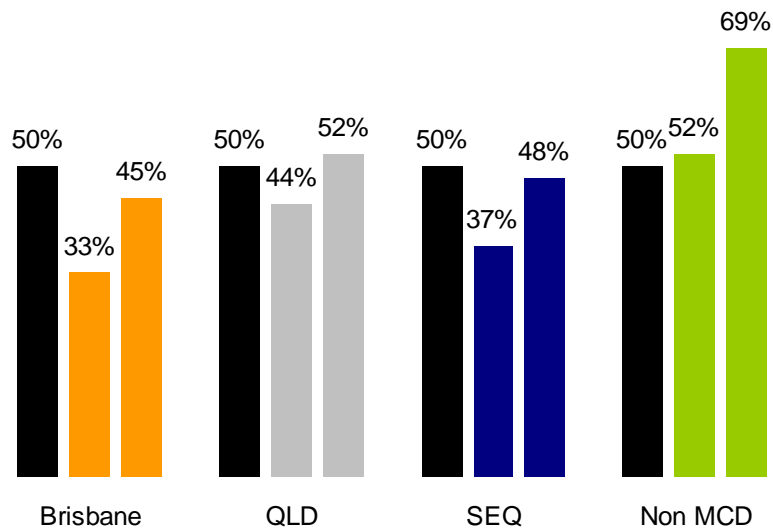
Our stakeholders

- regular engagement with the Dispute Resolution Branch (DRB) which provides MCD mediation services to QCAT; and Magistrates Courts to ensure efficient scheduling

Looking forward

- implementing changes from mediation and compulsory conferencing reviews
- analysis of technology options in the delivery of ADR services

Alternative Dispute Resolution facts and figures



■ *Benchmark*

Figure 3: OCAT mediation settlement rates 2012-13 v 2013-14

** Mediations in Brisbane are conducted by both DRB mediators and OCAT mediators. During 2013-14 year DRB mediators achieved a 38% settlement rate while OCAT mediators achieved a 63% settlement rate. The figure noted above combines both sets of outcomes.

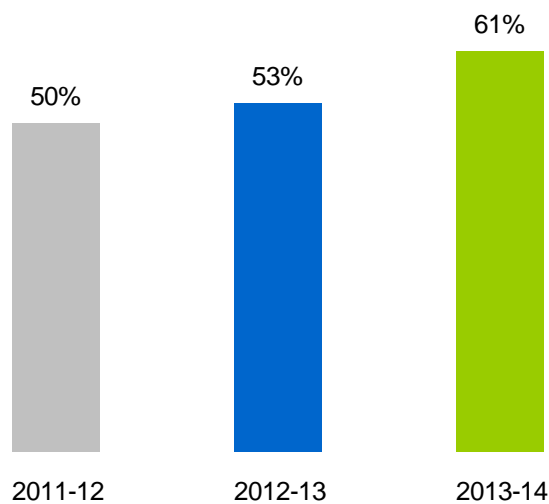


Figure 4: Compulsory conference settlement rates

Civil, Administrative and Disciplinary

Our year



Performance

- delivery of an overall clearance rate of 107 per cent despite an increase in lodgements in general administrative review (+16 per cent)
- all clearance rates over 100 per cent, including significant improvements in occupational regulation (+30 per cent) and neighbourhood dispute matters (+51 per cent)
- improved finalisation timeframes for health matters

Tree assessors provide expert advice to members hearing tree disputes

Looking forward

- implementation of new legislation including the *Tattoo Parlours Act 2013*
- responding to statutory review of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*
- ongoing development of effective education and engagement resources
- active engagement with key stakeholders e.g. new Queensland Health Ombudsman



QCAT decides occupational regulation and disciplinary matters in its original jurisdiction and also as an administrative review of the decisions of regulatory agencies. The following case studies show the diversity of matters in this jurisdiction.

Gambling addiction leads to real estate agent disqualification

An application for disciplinary proceedings was filed by the Chief Executive of the Department of Justice and Attorney-General against a real estate property manager who had misappropriated \$3,550 from her employers trust account and behaved in an incompetent or unprofessional way.

The property manager confessed her theft to her employer and police saying that she had a gambling addiction. The employer stated the confessions were provoked by announcement of an audit. The Tribunal reprimanded the property manager and disqualified her from holding a real estate licence or certificate of registration for 5 years. She had to repay the stolen amount, pay a \$1,000 fine, and successfully complete certain training if she wished to re-apply for a licence or certificate in the future.

Principal fails to protect students

The College of Teachers took disciplinary action against a Principal for failing to protect students from harm from sexual conduct by another teacher.

The Tribunal found that a ground for disciplinary action was established but did not agree with the joint submission of the parties that the appropriate sanction should be a reprimand.

The Tribunal considered a number of factors including that 14 of the 44 sexual offences committed against the primary school children were committed after the former Principal had been made aware of the conduct by a parent. The failure of the Principal to take adequate steps served to damage public confidence and failed to protect students. Orders were made by QCAT against the Principal that he be suspended for two years. When eligible for teacher registration, he is prohibited from working as a Principal or as a child protection contact.

Doctor misconduct made worse by fraud

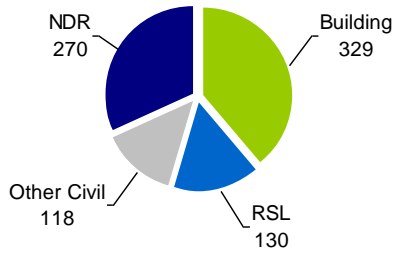
The Medical Board of Australia applied to QCAT regarding a registered medical practitioner who had behaved inappropriately towards a female patient. The Board imposed immediate conditions on the doctor such as not examining or treating any female patient without a chaperone. The doctor failed to comply with these conditions on 142 separate occasions.

He also wrote to the patient's home address threatening defamation proceedings and forged letters to the Chair of the Medical Board and the patient's solicitors claiming the patient admitted to framing the doctor and was withdrawing her complaint.

The Tribunal found that the practitioner's behaviour constituted professional misconduct. He was reprimanded and his registration suspended for 2 years. Conditions were also imposed on his registration for a year following the expiry of his suspension including the requirement for a chaperone.

Civil, Administrative and Disciplinary facts and figures

2012-13 lodgements



2013-14 lodgements

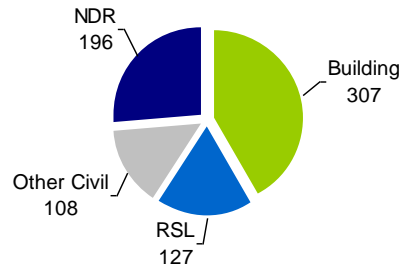


Figure 5: Civil matters lodgements 2012-13 and 2013-14

Clearance rates

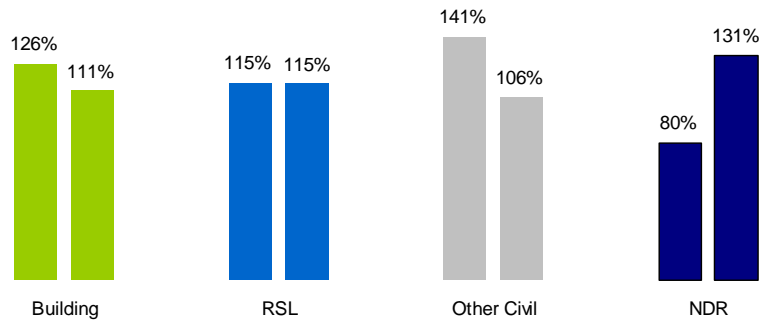
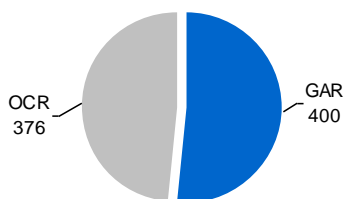


Figure 6: Civil matters clearance rates 2012-13 and 2013-14

2012-13 lodgements



2013-14 lodgements

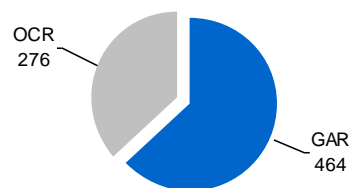


Figure 7: Administrative and disciplinary matters lodgements 2012-13 and 2013-14

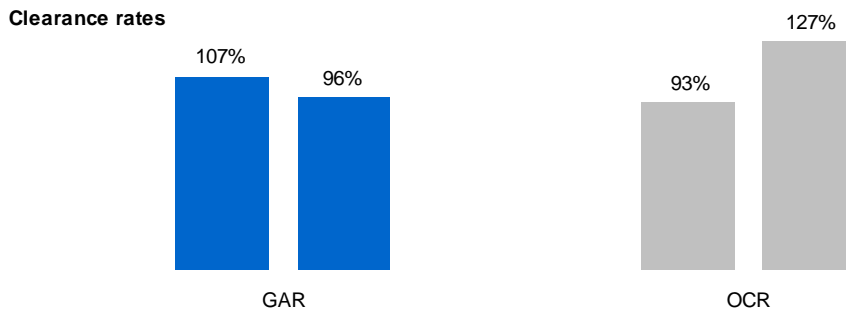


Figure 8: Administrative and disciplinary matters clearance rates 2012-13 and 2013-14

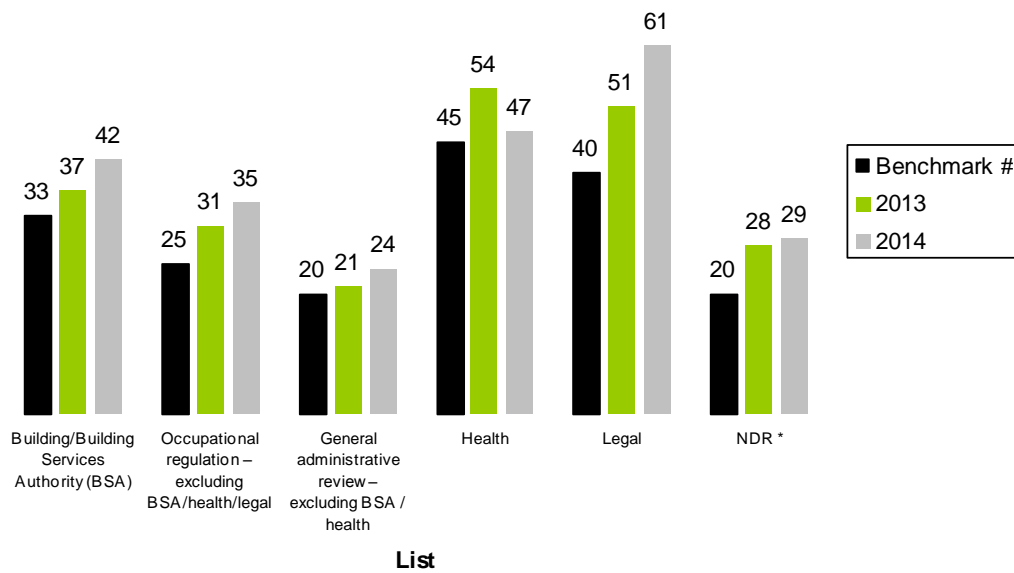


Figure 9: Civil and disciplinary division matters weeks to finalisation

**New jurisdiction introduced in November 2011*

QCAT introduced new benchmarks for all lists within 2012-13

Human Rights

Our year



Performance

- management of increased applications in all jurisdictions; children and young people (+8 per cent), guardianship (+7 per cent) and anti-discrimination (+6 per cent)
- reduced finalisation times in all jurisdictions, including child protection matters

We connect with our clients through professionalism, courtesy and respect

Engagement

- active engagement with range of stakeholders including the Department of Communities, Child Safety and Disability Services; the Commission for Children and Young People and Child Guardian; Anti-Discrimination Commission Queensland; the Office of the Adult Guardian; the Public Trustee of Queensland; independent advocacy groups and non-government organisations
- we deliver off-site hearings for adults in guardianship and administration matters at South East Queensland hospitals

Looking forward

- implementing legislative amendments arising from the Queensland Law Reform Commission's review into the guardianship and substituted decision-making regime
- implement changes as a result of recommendations out of the Queensland Child Protection Commission of Inquiry
- active engagement with key Tribunal users, particularly in the child protection sector.



The benefits of a combined Tribunal

George is an 18 year old man who has had an intellectual disability since birth and has been under state care due to a long-term child protection order. Despite his intellectual disability, George is able to clearly request he have no contact with his mother, who has a history of violent behaviour.

Prior to his 18th birthday, the Department of Community Services applied for an advance guardianship/administrator appointment for George. QCAT appointed the Adult Guardian as guardian and the Public Trustee of Queensland as administrator. The Adult Guardian now had authority to make decisions about contact.

Prior to the establishment of QCAT, applications made under child protection and guardianship/administration legislation would have been heard by separate Tribunals. As QCAT, the applications can be heard by the one Tribunal; clients like George experience a seamless service.

QCAT and the Queensland Child Protection Commission of Inquiry



The Government accepted the recommendations from the Queensland Child Protection Commission of Inquiry 2013 that QCAT consider improved practices and processes in:

- child inclusive and age-appropriate processes e.g. increased use of advocates
- timely consideration to reduce unnecessary delays and dismissal of matters
- publication of outcomes achieved through the compulsory conference process.

Following establishment of an internal working group, outcomes in 2013-14 include:

- QCAT President Justice Thomas meeting young people who are CREATE ambassadors (peak body for children in care) to discuss communication of decisions and reviews
- engagement with peak bodies in the child protection sector regarding best practice for children and young people and increasing involvement in the review process.

As part of an ongoing commitment to delivery of these recommendations, priorities in 2014-15 include:

- communicating with young people about self-representation support
- ongoing development of QCAT education material and child friendly materials
- ongoing stakeholder engagement, including as part of the G Force stakeholder group.

Making the tough decisions in anti-discrimination

QCAT received a referral from the Anti-Discrimination Commission Queensland for an applicant who alleged discriminatory remarks were made about her nationality by opposition representatives while conducting activities as a volunteer during a political election.

In attempt to confine the issues, the tribunal issued directions that the parties make written argument about the matter in preparation for a hearing. However, the applicant was often difficult to contact, did not comply with procedural directions (allegedly for medical reasons) and made repeated requests for extensions and adjournments.

Following approval of a number of requests for extension of time, the Tribunal determined that the applicant's conduct (and the absence of substantial evidence) indicated she was not actively pursuing her claim, and that the hearing would proceed regardless of her attendance.

QCAT in action: Resolution through compulsory conferences

Jenny is the mother of two children who are under the care and protection of the Department of Communities, Child Safety and Disability Services (DOCs). Jenny's children reside with approved carers and Jenny had contact with her children under long standing arrangements. However, DOCS informed Jenny that due to some concerns, her current contact arrangements were changing.

Jenny made application to QCAT seeking to review the decision of DOCs to change the contact arrangements. As with most **children's matters**, Jenny was advised the Tribunal would first conduct a compulsory conference.

A compulsory conference is a dispute resolution method which emphasises finding a solution to the dispute. If a matter is not resolved through the compulsory conference, the QCAT member can make a decision on how the case will proceed.

A compulsory conference is conducted in private. This allows the parties to the dispute to speak freely with the peace of mind that anything said during the compulsory conference cannot be divulged to any other parties including any future proceedings.

Jenny was able to resolve her dispute with DOCs through the compulsory conference process. Both parties agreed to conditions being met by Jenny, which would result in a review of the decision on contact arrangements.

Human Rights facts and figures

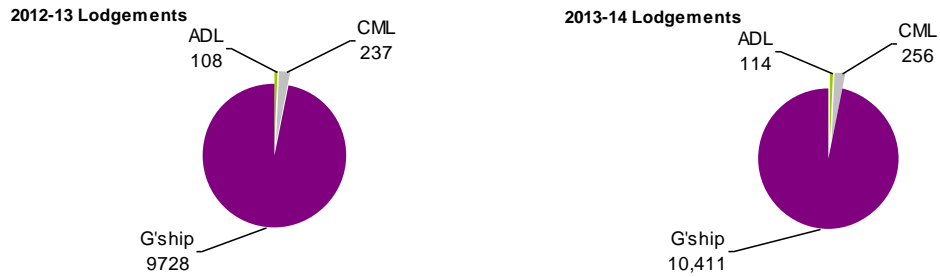


Figure 10: Human rights lodgements 2012-13 and 2013-14

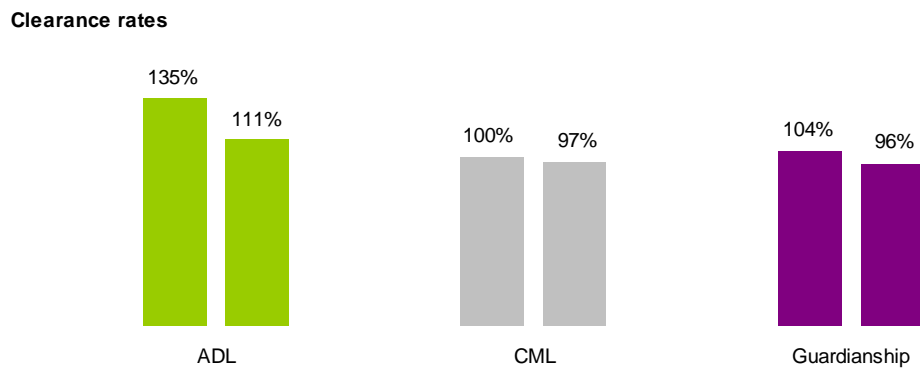


Figure 11: Human rights clearance rates 2012-13 and 2013-14

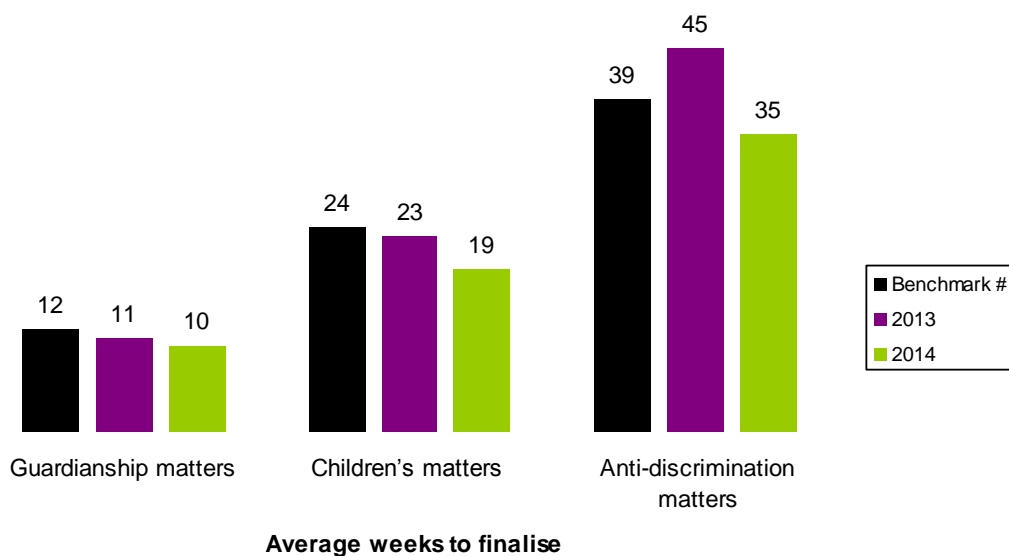


Figure 12: Human rights division matters weeks to finalisation
QCAT introduced new benchmarks for all lists within 2012-13

Limitation order type	Number made
Adult evidence order	0
Closure order	1
Non-publication order	1
Confidentiality order	13
No orders made	29
Total applications received	44

Table 6: Type and number of limitation orders made 2013-14 under the *Guardianship and Administration Act 2000*

	Guardianship for restrictive practice	Review of guardianship for restrictive practice
Order made	67	366
Dismissed / revoked	10	86
Deceased	1	1
Administrative closure	1	7
Withdrawn at hearing	6	0
Total	85	450

Table 7: Guardians for restrictive practices finalised applications 2013-14

	Approved	Dismissed / revoked	Deceased	Withdrawn / Administrative Closure	Total
Containment	9	0	1	1	11
Review of containment	39	2	0	1	42
Seclusion	7	0	0	2	9
Review of seclusion	41	6	0	3	50
Application for another restrictive practice	6	1	0	1	8
Review of application for another restrictive practice	49	5	0	1	55

Table 8: Containment, seclusion and other restrictive practices approvals 2013-14

Minor civil disputes

Our year

Performance



- maintaining a clearance rate over 100 per cent, despite an 11 per cent increase in residential tenancy applications
- delivery of average times to hearing for all MCD types exceeding benchmarks
- ongoing support of the Justices of the Peace trial

Looking forward

- ongoing review to improve processes, forms, client education and information
- develop additional online forms and opportunities for electronic payment
- provide ongoing support and education for Magistrates Court staff delivering QCAT services through Queensland



Reopening an application in residential tenancy

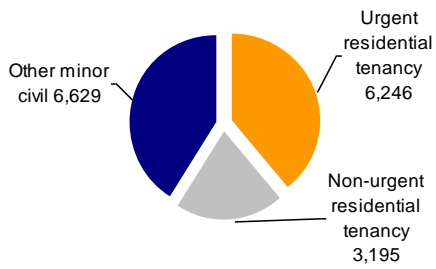
Wendy lodged a residential tenancy application with QCAT claiming compensation over a residential tenancy dispute. The Tribunal dismissed the application as there had been no conciliation attempt between parties via the RTA (a requirement of the Act) and Wendy had failed to prove her case.

Wendy then applied to the Tribunal to reopen the matter to consider additional evidence including a medical report and a notice of unresolved dispute from the RTA.

In order to successfully apply for reopening, Wendy must show that she would suffer an injustice because she has significant new evidence that was not previously available. The Tribunal determined there was nothing to support that the evidence Wendy wanted to submit was new evidence which was not reasonably available for the original hearing.

MCD facts and figures

2012-13 lodgements



2013-14 lodgements

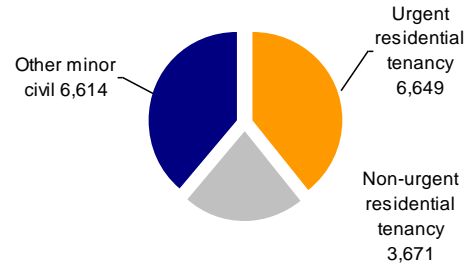


Figure 13: Minor civil dispute lodgements 2012-13 and 2013-14*

Clearance rates

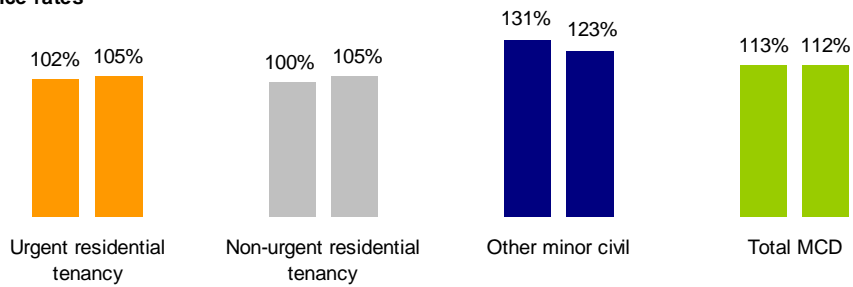


Figure 14: Minor civil dispute clearance rates 2012-13 and 2013-14*

*Figures for Brisbane and South-East Queensland only, where QCAT adjudicators sit. Matters in other regions are heard by magistrates sitting as QCAT members.

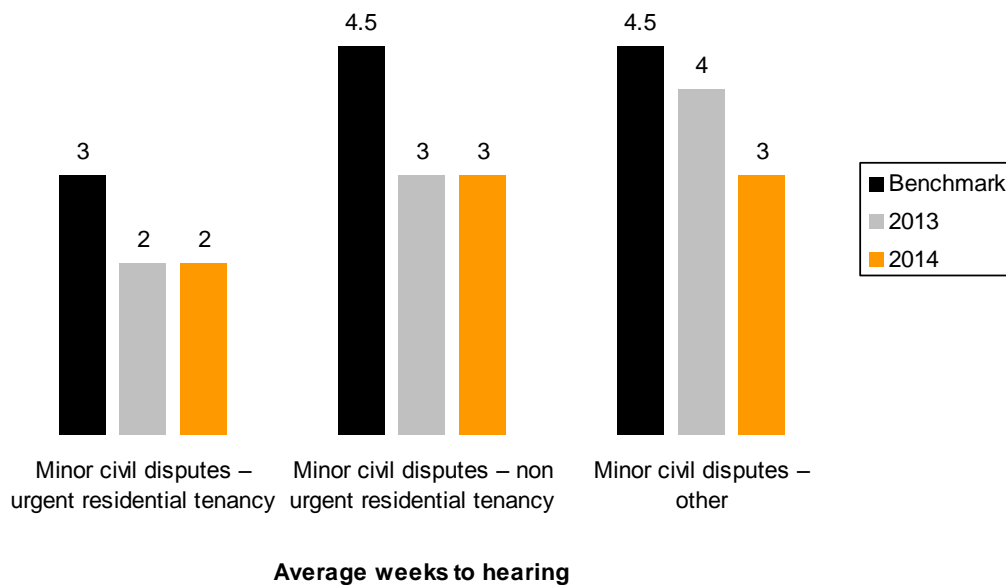


Figure 15: Minor civil dispute matters average time to hearings

Residential tenancy applications processed 2013-14	
Applications	
Total received – 11% increase on 2012-13 (9441)	* 10,309

Table 9: Residential tenancy applications lodged in 2013-14

Application types	
Termination for rent arrears	4,480
Termination for objectionable behaviour	160
Termination for repeated breaches	473
Termination for lessor's excessive hardship	269
Termination for tenant's excessive hardship	318
Termination for domestic violence	5
Termination for damage/injury	58
Emergency repairs	36
Rental increase/decrease	78
Tribunal order on abandoned premises	31
Application for unjust listing	598
Application for proposed listing	42
General disputes	1,833
Bond disputes	1,031
Miscellaneous/other	897

Table 10: Residential tenancy application types managed by QCAT in 2013-14

Includes 594 applications lodged by Public Housing. Figures are for Brisbane and South-East Queensland only, where QCAT adjudicators sit. Matters in other regions are heard by magistrates sitting as QCAT members.

Hearings and matters finalised	
Adjournments	1,592
Hearings	13,996
Matters finalised	10,819
Warrants of possession issued	2,681

Table 11: Residential tenancy hearings and finalisations in 2013-14

Reopenings and appeals	
Reopenings lodged	170
QCAT Appeal Tribunal	422

Table 12: Residential tenancy reopenings and appeals managed by QCAT in 2013-14

Appeals

Our year

Performance

- maintenance of a 2 per cent appeal rate (of total lodgements)
- management of a 12 per cent rise in appeals

Looking forward

- improvements to information about avenues of appeal and the work of the Appeal Tribunal

When can a decision be appealed?

Not every decision can be appealed to the QCAT Appeal Tribunal. QCAT sends clients information about avenues of appeal, with the decisions of the Tribunal.

For minor civil disputes and in many other cases, there is no right to appeal a decision and a party must first ask the Appeal Tribunal for permission to appeal. This is called “leave to appeal”. Leave to appeal is generally only given if:

- there is a reasonable argument that an error has occurred; and
- an appeal is necessary to correct a substantial injustice to the applicant caused by that error.

Leave to appeal will not be granted just because a party is unhappy with the tribunal’s decision.

Who hears appeals?

The Appeal Tribunal may be constituted by one, two or three Judicial Members or if the President considers it appropriate, one, two, or three Senior or Ordinary Members of the Tribunal. For appeals from decisions of Magistrates (who decide minor civil disputes in their capacity as QCAT Members) the Appeal Tribunal must be constituted by a Judicial Member.

The Appeal Tribunal cannot hear appeals from decisions of Judicial Members or appeals from other decisions of the Appeal Tribunal. These appeals must be commenced in the Court of Appeal. QCAT’s figures indicate a very low rate of appeals commenced with the Court of Appeal: 30 appeals in 2012-13 and 22 in 2013-14. These figures represent less than 1 per cent of all QCAT lodgements in those respective years.

Appeals facts and figures

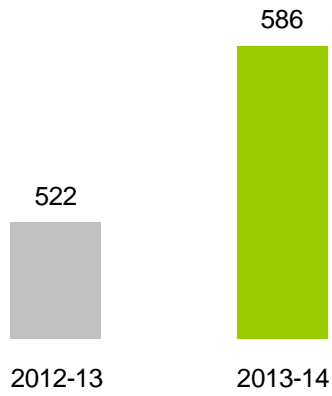


Figure 16: Appeals lodgements

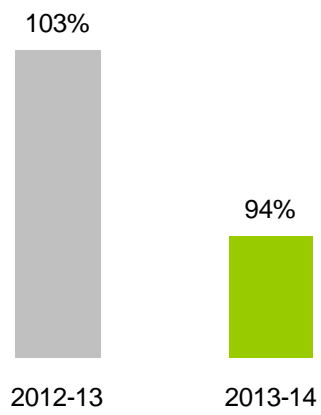


Figure 17: Appeals clearance rates