

Service delivery

Infrastructure

A permanent presence in North Queensland

This year we received approval to trial North Queensland hearing support officer roles. The trial has three key objectives:

1. Reduce staff travel costs and travel-related expenses.
2. Reduce delays to parties and stakeholders when flight delays or cancellations occur.
3. Improve operational efficiencies by reducing travel, administration and in-transit time that could be better spent supporting Tribunal members in other QCAT jurisdictions.

It is important that members of the public outside the South East Queensland region see QCAT as accessible and responsive. The Tribunal sees the recruitment of permanent QCAT staff in the regions as an important first step in a strategy to ensure engagement with the Tribunal across Queensland.

The trial will be evaluated in December 2016 to assess user benefits, internal efficiencies and potential extension.

Remote conferencing

Remote conferencing is a cost-effective, time-efficient option to hear matters and communicate with regional parties.

This year, our Brisbane videoconference systems in hearing rooms 1 and 8 were upgraded. During the 2015-16 financial year QCAT held 35 hearings via videoconference to bring parties together from diverse and remote locations including Thursday Island, Mornington Island, Normanton, Doomadgee, Roma, Mount Isa, Goondiwindi and Charleville. This is a significant increase on the 10 hearings by videoconference held last year.

Our Brisbane premises

We are continuing to improve our current premises to overcome immediate resourcing concerns and to ensure Tribunal staff have a safe and efficient workspace. In 2015-16 these works:

- contributed to a more efficient use of office space
- created a safer working environment for staff and members
- enabled members to work more closely together to improve their management and professional development opportunities.

In addition, we completed preparations to provide clearer directions for users of QCAT services and facilities with improved hearing room signage.

Our regional partnerships with Magistrates Courts

Queensland's Magistrates Courts provide QCAT's regional frontline services. Our partnerships with the courts aim to ensure the public receives informed, consistent service.

This year we held face-to-face sessions with court staff in the 12 Southeast Queensland Magistrates Courts to provide them with information about QCAT scheduling and hearing support processes and enable us to learn about local issues and regional differences.

The outcomes from these sessions informed 2015-16 service improvement planning. Activities to be implemented in 2016-17 include:

- developing a system for capturing users and staff's FAQs to develop training content and ensure knowledge-based and collaborative needs are met
- developing and delivering a rolling QCAT training calendar to Magistrates Court staff
- surveying court registries on their QCAT training and information to help formulate our next regional engagement plan
- establishing a working party with Magistrates Courts representatives to reinvigorate regional engagement
- updating QCAT application procedures for consistent service delivery in regional and remote areas.

Our jurisdictions

Civil, Administrative and Disciplinary Division

Our Civil, Administrative and Disciplinary Division incorporates a broad range of jurisdictions. The Tribunal's civil jurisdiction includes:

- building disputes
- body corporate and community management, retirement villages and manufactured homes
- neighbourhood disputes (trees)
- retail shop leases.

The Tribunal's administrative review jurisdiction includes the review of government decisions. The Tribunal's occupational regulation jurisdiction includes regulation of lawyers, health professionals, teachers, engineers, veterinarians, builders and property agents.

Initiatives

Neighbourhood disputes

The term 'neighbourhood disputes' covers both tree disputes and dividing fencing disputes. QCAT's Civil, Administrative and Disciplinary Division manages tree disputes while the Client Services team and the State's regional Magistrates Courts manage fence disputes.

This year, the notice process for neighbourhood disputes was transferred to QCAT from the Department of Justice and Attorney-General. To facilitate the change, the Tribunal reviewed and updated online information and client service scripts. In 2015-16 QCAT commenced a trial of referring simple tree disputes straight to mediation, rather than a hearing or compulsory conference before a member. The trial is continuing and will be evaluated in 2016-17.

Early intervention – building disputes

This year the Tribunal returned to the practice of referring building disputes to compulsory conference soon after receiving the response to the application. The early referral to dispute resolution enables parties to resolve their dispute, or clarify issues, before committing significant time and resources to the preparation for a hearing.

- In the six months to June 2016, the average time to finalisation of matters in the trial was 17 weeks, a 26-week reduction on pre-trial timeframes.
- In that same period, the number of resolved matters increased by 8% from 36.4% to 44.4%.

Facts and figures

Lodgements: The Tribunal experienced a 19% increase in retail shop lease matters and 16% increase in building matters. There was a slight decrease in occupational regulation matters which may be partly attributable to changes in the *Queensland Building and Construction Commission Act 1991*.

Clearance rates: The average clearance rates for 2015-16 (113%) shows a 6% decrease. Given the significant increase in filings, the high clearance rate is a creditable result and remains greater than 100%.

Graph key

BDL – building

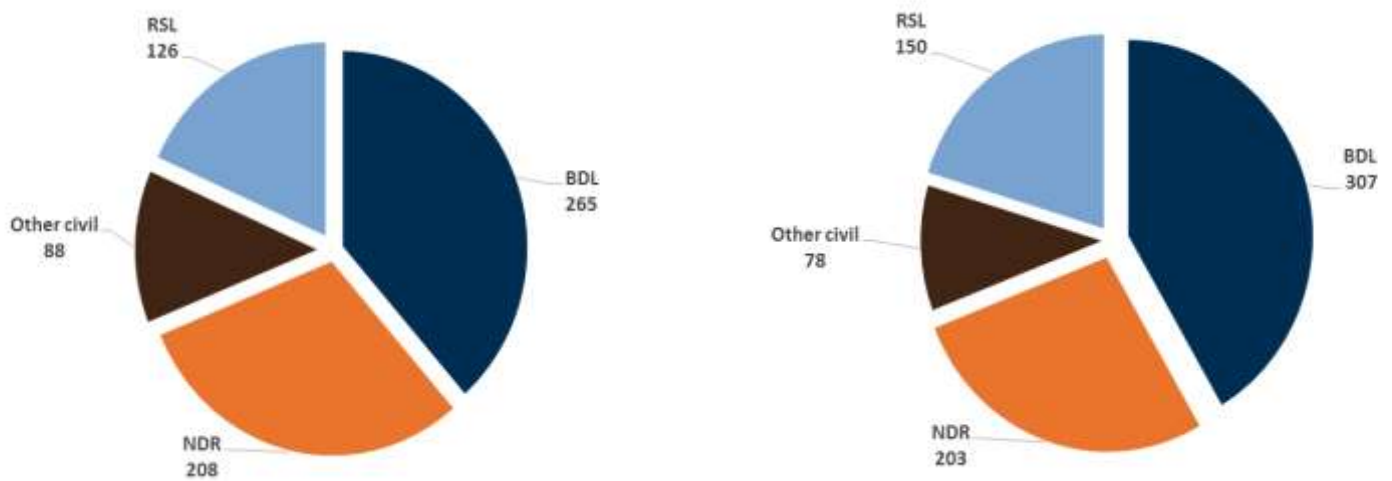
GAR – general administrative review

NDR – neighbourhood dispute resolution (tree disputes)

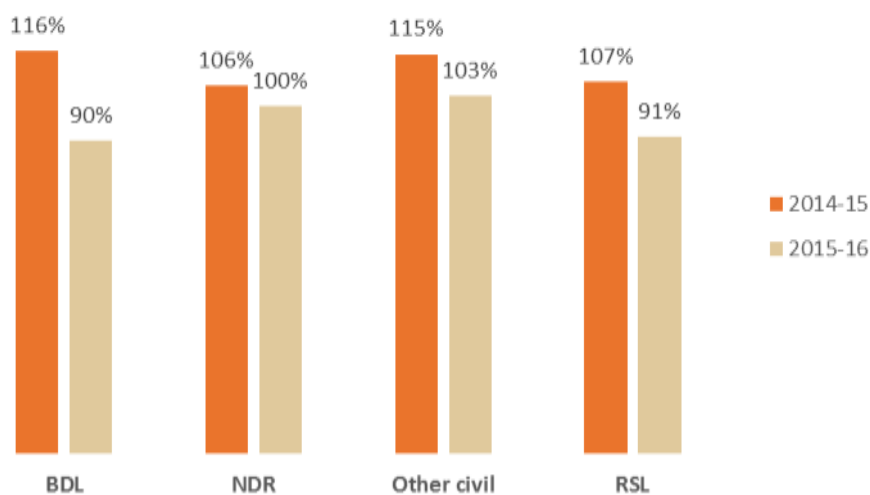
OCR – occupational regulation

Other civil – matters including body corporate disputes, legal cost agreement claims, retirement villages or manufactured home disputes etc

RSL – retail shop lease



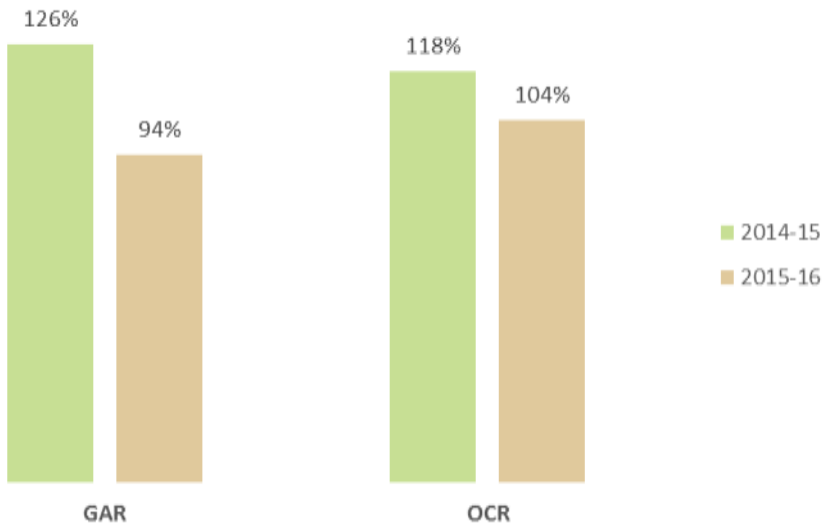
Civil matters lodgements 2014-15 and 2015-16



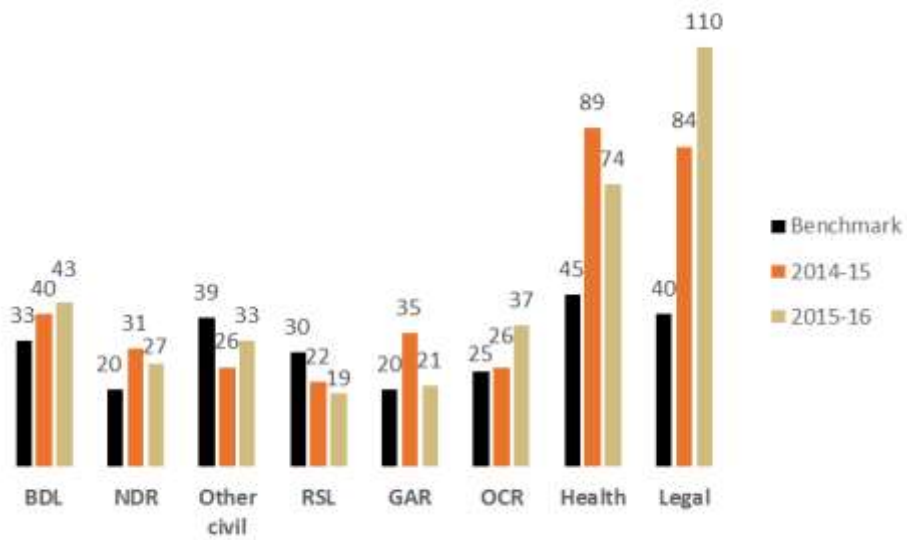
Civil matters clearance rates 2014-15 and 2015-16



Administrative and disciplinary matters lodgements 2014-15 and 2015-16



Administrative and disciplinary matters clearance rates 2014-15 and 2015-16



Civil, administrative and disciplinary matters weeks to finalisation 2014-15 and 2015-16

QCAT in action

Kevin was having problems with tree roots in his sewerage pipes. He believed that a tree growing on his neighbour Paul's property was the problem. He filed an application for an order that Paul remove the tree.

The Tribunal appointed an arborist to look at the problem. The arborist provided a report that said the tree roots were encroaching on Kevin's property, causing his courtyard paving to buckle. He said that the roots in the pipes were probably from tree in question.

Paul told the Tribunal that the damage to Kevin's pipes was because the pipes were old clay pipes.

The Tribunal found that Paul's tree was causing damage to Kevin's pipes. It ordered Paul remove the tree and pay Kevin's costs of fixing his pipes.

Don and Alice bought a dining table and 12 chairs from Fine Furniture in June. They paid a substantial deposit.

The table was delivered in a damaged condition. Don asked for a replacement table; the replacement table was the wrong colour so he rejected the replacement table.

By October Don and Alice had still not received the chairs. Fine Furniture advised Don and Alice that the order was still more than a month away from delivery. Fine Furniture later advised them that their replacement table should arrive in late December.

Don cancelled the contract in November and called for a refund of the deposit.

The Tribunal found that Fine Furniture's failure to deliver an acceptable table was a major failure under the Australian Consumer Law, and a failure of its obligations under the contract. As a result, Don and Alice were entitled to reject both the table and chairs. The Tribunal ordered Fine Furniture refund the deposit and pay interest.

A licensed club in a country town once held a licence for adult entertainment. When that licence expired, its application for a new licence was refused. After four years, it again applied for an adult entertainment licence. Again it was refused, on the grounds that the club could not control noise and behaviour issues. The club applied to the Tribunal for a review of that decision.

The Tribunal accepted the club's acknowledgement of past errors. It found that any perceived risks could be addressed through conditions on the licence. It granted a three-year licence with stringent conditions.

Human Rights Division

The Human Rights Division manages guardianship and administration, clinical research, anti-discrimination, child protection, adoption, and access to schools and institutions. This year the Tribunal again saw a marked increase in lodgements. The Human Rights Division experienced a 12% increase in guardianship lodgements with clearance rates only marginally affected (6% decrease) while children's matters increased by 17% but clearance rates held at 94%. A settlement rate of 65% was achieved in compulsory conferences for child protection reviews.

An application for a restrictive practice may be required if an adult with impaired capacity shows challenging behaviour which could cause harm to themselves or others. The *Guardianship and Administration Act 2000* was amended in 2014 to allow two year appointments for guardians for restrictive practices instead of one year appointments. This change has reduced the number of reviews this year and provided greater certainty to the parties concerned.

The Tribunal also engaged in significant project work, including preparations for the NDIS rollout, ongoing implementation of Queensland Child Protection Commission of Inquiry recommendations, and partnering with Queensland Health to expedite hospital hearings.

The anti-discrimination jurisdiction remained relatively static.

Initiatives

National Disability Insurance Scheme

The implementation of National Disability Insurance Scheme (NDIS) may impact the workload in QCAT's guardianship list if the appointment of substitute decision makers is required to help adults assess, negotiate and enter into contracts to purchase services and supports.

This year we focused on having mechanisms in place to measure the impact of NDIS so that the Tribunal can understand demands on resources. Preparations included analysis of participant data from interstate launch sites¹ and National Disability Insurance Agency projects² for Queensland, and reviewing QCAT's guardianship management procedures, current capacity and performance.

Hospital hearings

Hospital hearings are a collaboration between QCAT and Metro North Hospital and Health Service (MNHHS). The initiative aims to reduce the length of hospital stays for patients with pending applications for the appointment of a guardian or administrator.

Many elderly patients require substitute decision makers so they can transition from the Queensland Health system to appropriate aged care accommodation.

The initiative will review processes at both MNHHS and QCAT to identify cases where time and cost savings can be made, while still preserving the rights of the adult.

¹ National Disability Insurance Scheme – New South Wales, 30 June 2016, [NDIS rolls out across half of NSW](#)

² National Disability Insurance Scheme, [Our sites](#)

A trial group of cases are being heard at the hospital in which the adult is located. Potential benefits include:

- reduction in QCAT guardianship hearing timeframes for inpatients from 6 weeks (the previous average) to 3-4 weeks
- alleviation of the current high demand for limited acute inpatient services in MNHHS
- streamlined processes between QCAT and MNHHS
- cost savings to MNHHS by reducing the time patients spend in hospital waiting alternative accommodation
- improved inpatient rehabilitation with prompt placement in care facilities.

Child protection

In 2015-16 QCAT continued to implement outcomes from the Child Protection Commission of Inquiry's 2013 report *Taking responsibility: A Roadmap for Queensland Child Protection*. This year we:

- Launched a child friendly webpage (see qcat.qld.gov.au/matter-types/children/iamachild) along with a child friendly complaints process. The webpage received 488 unique page views in 2015-16.
- Published a QCAT Practice Direction 6 of 2015, Process for administrative reviews in child protection matters, to set out how we include children and young people in reviews of Department of Communities, Child Safety and Disability Services decisions. The practice direction was accessed 68 times in 2015-16.
- Started recording outcome themes for compulsory conferences to enhance the understanding and reporting on outcomes in this jurisdiction. These themes will be reported on in next year's annual report.
- Started capturing the participation of children in our child protection reviews. Children's participation in our child protection reviews will be reported on in next year's annual report.
- Continued to focus on efficient, appropriate and sensitive methods to manage and resolve child protection matters.

QCAT has implemented all relevant inquiry recommendations that will become part of business as usual in 2016-17. We continue to work closely with other child protection stakeholders to share insights and initiative results.

Ensuring external examiners' excellence

QCAT's external panel of examiners provide accountancy and trustee expertise to the Tribunal's annual examination of administrators' accounts. These administrators review the management of complex finance and property matters for adults with impaired decision making capacity.

This year preparation commenced on reviewing the panel's guidelines, which details roles and responsibilities, relevant legislation, considerations regarding expenditure, calculation outcomes, assets and liabilities, and required documentation.

These guidelines are the foundation of annual training, a review of which is also underway.

Early dispute resolution in anti-discrimination disputes

As a result of the members' process review, the process for dealing with anti-discrimination matters changed. Instead of orders taking the dispute from filing to a hearing, with a late compulsory conference, anti-discrimination disputes are now referred to an early compulsory conference. The Member presiding over the compulsory conference then makes orders for the further progress of the matter that are tailored to the needs of the particular dispute.

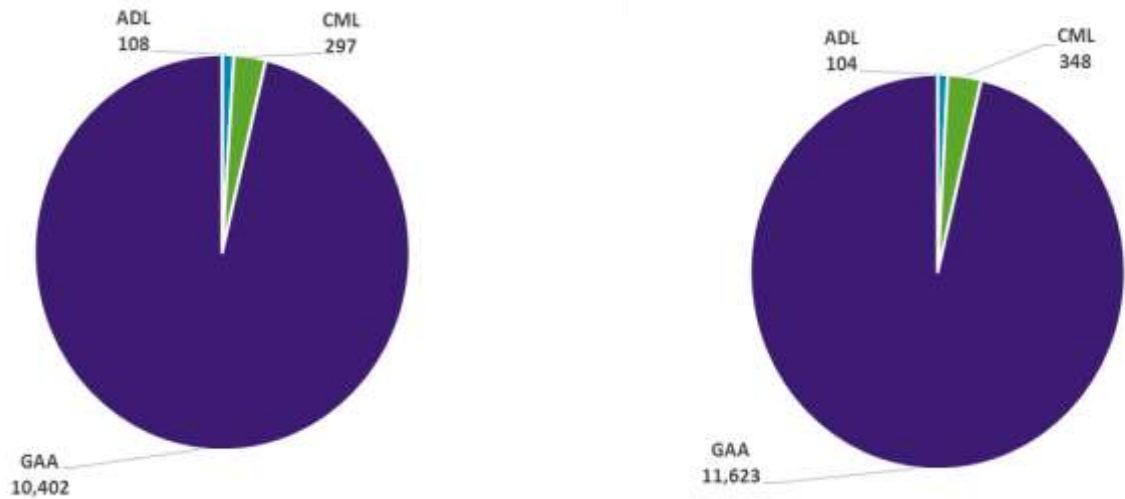
Facts and figures

Graph key

ADL – anti-discrimination

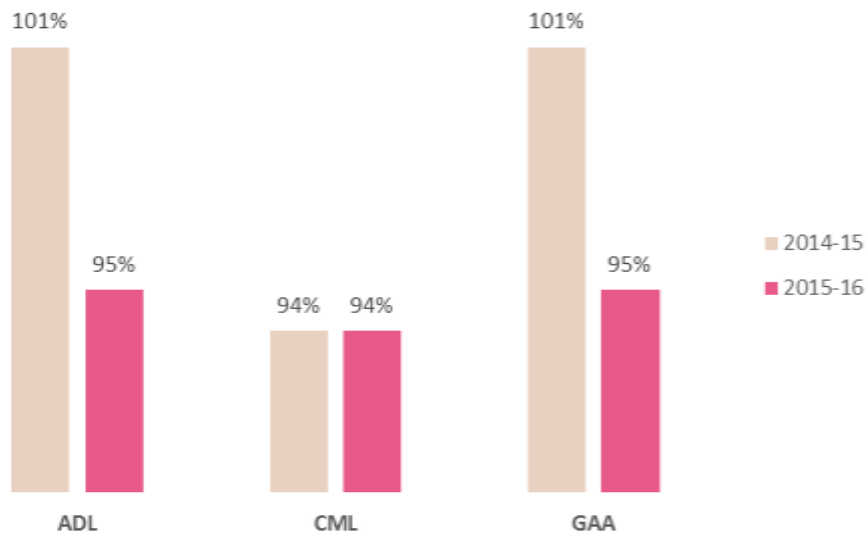
CML – children’s matters

GAA – guardianship and administration for adults



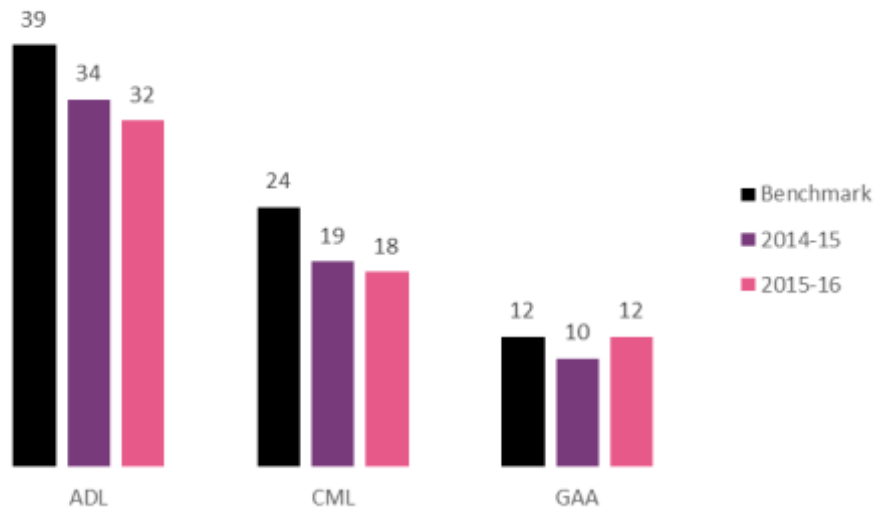
Human rights lodgements 2014-15 and 2015-16

There has been a 12% increase in guardianship lodgements this year and a 17% increase in matters in the children’s list that includes both child protection and employment screening (blue card) reviews. Anti-discrimination referrals have remained static.



Human rights clearance rates 2014-15 and 2015-16

Our clearance rates remained relatively stable this year despite significant increases in children and guardianship matter lodgements. Where appropriate QCAT uses compulsory conferences to resolve matters without the need for a Tribunal hearing and to clarify issues for resolution.



Human rights weeks to finalisation 2015-16

On average both anti-discrimination and children’s matters were finalised well within our benchmarks of 39 weeks and 24 weeks respectively. The benchmark of 12 weeks for guardianship matters was met. The two week increase in timeframes for guardianship matters from 2014-15 is due to an increase in matters balanced against resource constraints.

QCAT in action

A not-for-profit association wanted to employ a youth worker to support its program for young people at risk. The association employed two youth workers; one male and one female. The male youth worker was taking extended leave. The association wanted to advertise for a male youth worker to fill that role. Advertising for a male youth worker would have been a breach of the *Anti-Discrimination Act*. The association applied to the Tribunal for an exemption from the Act.

The Tribunal accepted the association's evidence that 80% of the youths involved in the program were male. It did not accept that only a male youth worker was capable of doing the work but it did accept the association's submission that at least one male youth worker was necessary to address challenging, aggressive, sexualised behaviours while the current youth worker was on leave.

The Tribunal granted an exemption from the Anti-Discrimination Act.

Supporting children's participation in proceedings

An application for a review of a Department of Communities, Child Safety and Disability Services decision was received from parents of three children under the care and protection of the department.

The children involved were all old enough to express their views and wishes and informed their advocate they did not wish to have contact with their parents during the proceedings before QCAT. The Public Guardian communicated the wishes of the children to the Tribunal and arrangements were made to reflect their needs.

These arrangements included ensuring the parties arrived at staggered times, providing Public Guardian support during the proceedings and organising separate hearing rooms connected by teleconference. An independent service provider was also involved to support the children and make practical arrangements for their attendance.

As the parents were from a non-English speaking background, interpreters were arranged to ensure they understood the proceedings and could express their views. The Tribunal conducted a compulsory conference which resulted in the parents withdrawing their application. They and the department agreed to incrementally introduce contact arrangements for the children to reconnect with their parents, initially by phone and letters, with a view to progressing these arrangements.

2015-16 guardianship for restrictive practice

	Guardianship for restrictive practice		Review of guardianship for restrictive practice	
	2014-15	2015-16	2014-15	2015-16
Order made	66	53	376	53
Dismissed / revoked	9	10	55	32
Deceased	0	0	1	1
Administrative closure	8	4	4	3
Withdrawn at hearing	13	14	1	0
Total	96	81	437	89

The *Guardianship and Administration Act 2000* was amended in 2014 to allow two year appointments for guardians for restrictive practices (previously one year appointments were the maximum term allowable). This meant that appointments made in 2014-15 did not require further review until 2016-17, with the effect of reducing reviews this year.

Containment, seclusion and other restrictive practices approvals 2015-16

	Approved		Dismissed / revoked		Withdrawn / Administrative Closure		Total	
	2014-15	2015-16	2014-15	2015-16	2014-15	2015-16	2014-15	2015-16
Containment	9	18	1	1	2	4	12	23
Review of containment	37	30	3	6	0	4	40	40
Seclusion	2	11	2	2	1	3	5	16
Review of seclusion	37	34	1	3	0	2	38	39
Application for another restrictive practice	8	11	1	3	2	1	11	15
Review of application for another restrictive practice	48	45	1	6	0	5	49	56

This year there was a rise in containment and seclusion approved applications. These approvals represent, respectively, 0.2% and 0.14% of total guardianship lodgements for 2015-16.

Limitation orders 2015-16

Limitation order type	Number made	
	2014-15	2015-16
Adult evidence order	2	0
Closure order	0	1
Non-publication order	1	3
Confidentiality order	31	28
No orders made	28	29
Total applications received	62	61

If the Tribunal is satisfied it is necessary to avoid serious harm or injustice to a person it may make a limitation order under the *Guardianship and Administration Act 2000*.

Limitation orders include:

- adult evidence orders where information is obtained from an adult concerned at a hearing in the absence of anyone else.
- closure orders where all or part of a hearing is closed to all or a specific group or person.
- non-publication orders that prevent publication of information about a Tribunal proceeding.
- confidentiality orders that restrict access by another party to a relevant document or information.

There was little change in the number of limitation orders made in 2015-16 compared to the previous year.

Minor Civil Disputes

Minor civil disputes, although civil disputes, are managed by our Client Services team and through Magistrates Courts across Queensland. They are the bulk of the Tribunal's filings.

Minor civil disputes include:

- urgent residential tenancy disputes
- disputes under \$25,000:
 - non-urgent residential tenancy
 - consumer/trader disputes
 - trader/trader disputes
 - claims for property damage arising out of the use of a vehicle
 - claims for repair of a defect in a motor vehicle
 - fencing disputes
 - minor debts.

Initiatives

User engagement

In 2015/16, the Tribunal started sending SMS alerts to people who lodged non-urgent residential tenancy applications. The SMS confirmed QCAT had received the application and provided applicants with their case number. In 2015-16, 5626 SMS alerts were sent, reducing incoming calls regarding these matters by 62%.

Justice of the Peace initiative

In 2015-16 there was an independent review of our Justice of the Peace (JP) initiative. Justices of the Peace have been a part of QCAT for three years, hearing matters in Brisbane, Ipswich, Maroochydore, Southport and Townsville. The independent review evaluated the initiative's success against its five objectives:

1. Reduce time taken to finalise minor civil dispute applications and improve clearance rates.
2. Reduce the cost of hearing minor civil disputes.
3. Enable QCAT adjudicators and magistrates to hear more complex matters.
4. Provide opportunities to develop and expand JPs' skills.
5. Contribute to improving justice system administration and access for Queenslanders.

Following assessment of the evaluation, the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice announced JPs will now form part of business-as-usual operations within QCAT and continue in the five locations.

Under the initiative a panel of two JPs, one of whom must be legally qualified, constitute the Tribunal to resolve minor civil disputes up to \$5000 including:

- non-urgent residential tenancy disputes
- minor debt matters
- consumer and trader disputes
- dividing fence matters
- motor vehicle property damage disputes.

A year in the life of QCAT JPs

- 72 JPs were reappointed in June 2016.
 - JPs heard 3332 matters in 2015-16 across five locations.
 - There are a low number of adjournments (13%), complaints (0.48%) and appeals (1.2%) from JP matters.
 - This year's client research showed 59% of those who responded agreed with QCAT's decision in their matter and 58% agreed or strongly agreed the QCAT member (JP) had appropriate knowledge and skills.
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Relevant 2015-16 outcomes are provided here.

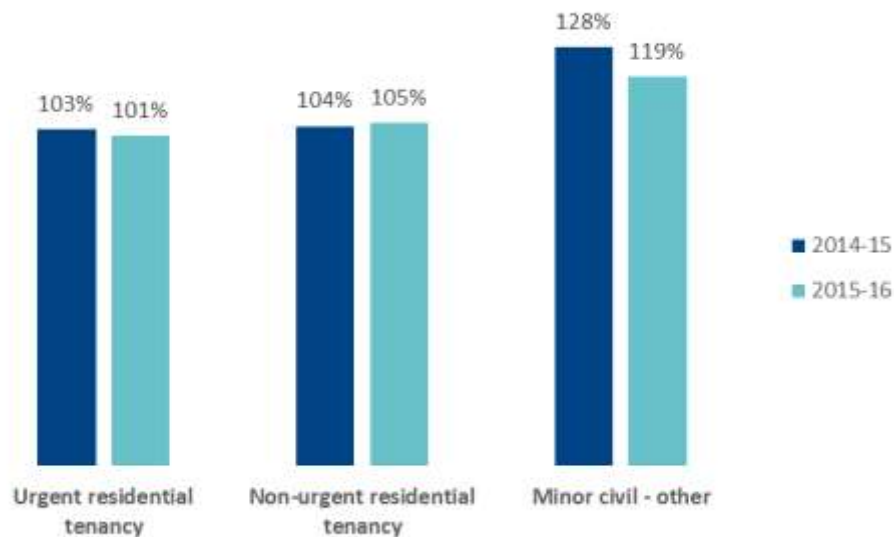
Site location	Hearings		Adjournments		Adjournment rates	
	2014-15	2015-16	2014-15	2015-16	2014-15	2015-16
Brisbane	2014	1835	187	231	9%	13%
Ipswich	203	193	16	27	8%	14%
Maroochydore (M'dore)	207	272	11	16	5%	6%
Southport	774	737	85	135	11%	18%
Townsville	226	295	17	35	8%	12%

Facts and figures



Minor civil dispute lodgements 2014-15 and 2015-16*

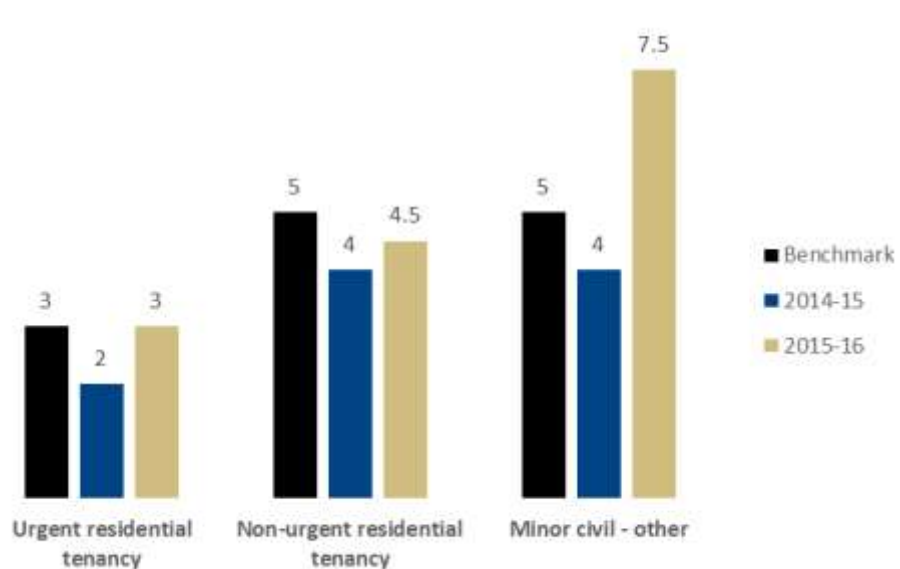
Total minor civil dispute QCAT lodgements remained consistent with 2014-15, while non-urgent residential tenancy matters increased 3%.



Minor civil dispute clearance rates 2014-15 and 2015-16*

A 4% clearance rate reduction accompanied the lodgement reduction this year, with the biggest fall being in 'other minor civil' matters (9%). These matters cover a wide range of disputes of varying complexity including minor debt, consumer and fence matters.

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



Minor civil dispute matters' weeks to hearing

The benchmark for weeks to hearing for urgent and non-urgent tenancy matters was met. Other minor civil matters, which consist of fence, minor debt and consumer matters, exceeded their performance benchmark by 2.5 weeks.

Residential tenancy applications processed 2015-16	2014-15	2015-16
Total received	9831	9984

Application numbers for residential tenancy disputes remained consistent in 2015-16

Residential tenancy application types	2014-15	2015-16	Difference
Termination for rent arrears	4311	4312	1
Termination for objectionable behaviour	115	151	36
Termination for repeated breaches	341	289	-52
Termination for lessor's excessive hardship	267	308	41
Termination for tenant's excessive hardship	314	315	1
Termination for domestic violence	8	7	-1
Termination for damage/injury	8	36	28
Emergency repairs	26	31	5
Rental increase/decrease	61	79	18
Tribunal order on abandoned premises	56	68	12
Application for unjust listing	639	626	-13
Application for proposed listing	47	37	-10
General disputes	1943	1638	-305
Bond disputes	885	1038	153
Miscellaneous/other	810	1049	239

Residential tenancy application types 2014-15 and 2015-16

In 2015-16 there was a significant decrease in applications for general disputes and an increase in applications for other matters such as service charges or tenancy changes (miscellaneous/other). General disputes are dispute that may involve a number of issues.

Residential tenancy hearings and matters finalised	2014-15	2015-16
Adjournments	1446	1440
Hearings	13,447	13,989
Matters finalised	10,219	10,253
Warrants of possession issued	2877	2636

Residential tenancy hearings and finalisations 2014-15 and 2015-16

The number of residential tenancy hearings increased slightly this year by 4% however the rate of adjournment and finalisation of matters remained relatively consistent to that in 2014-15. There was an 8% decrease in the number of warrants of possession issued.

Residential tenancy reopenings and appeal lodgements	2014-15	2015-16	Difference
Reopenings lodgements	124	140	16
QCAT Appeal Tribunal lodgements	395	345	-50

Residential tenancy reopenings and appeal lodgements QCAT managed 2014-15 and 2015-16

There was a 11.5% increase in the number of reopening applications in 2015-16 and a 13% decrease in the number of applications for leave to appeal residential tenancy decisions.

QCAT in action

John, a builder, filed a claim for minor civil dispute for unpaid work under a building contract with Bill, a homeowner. Bill said he was not responsible for the debt because the charges were excessive and he had been billed for work he did not authorise.

John had not taken his dispute through the early dispute resolution process required under the *Queensland Building and Construction Commission Act*. A party cannot file an application for a building dispute unless the dispute has been through the QBCC dispute resolution process.

The Tribunal dismissed John's claim for lack of jurisdiction. The Appeal Tribunal confirmed the Tribunal's decision, saying that the dispute was a building dispute, mediation through the QBCC was a necessary pre-condition to the Tribunal's jurisdiction and, because John did not go through that process, the Tribunal had no jurisdiction.

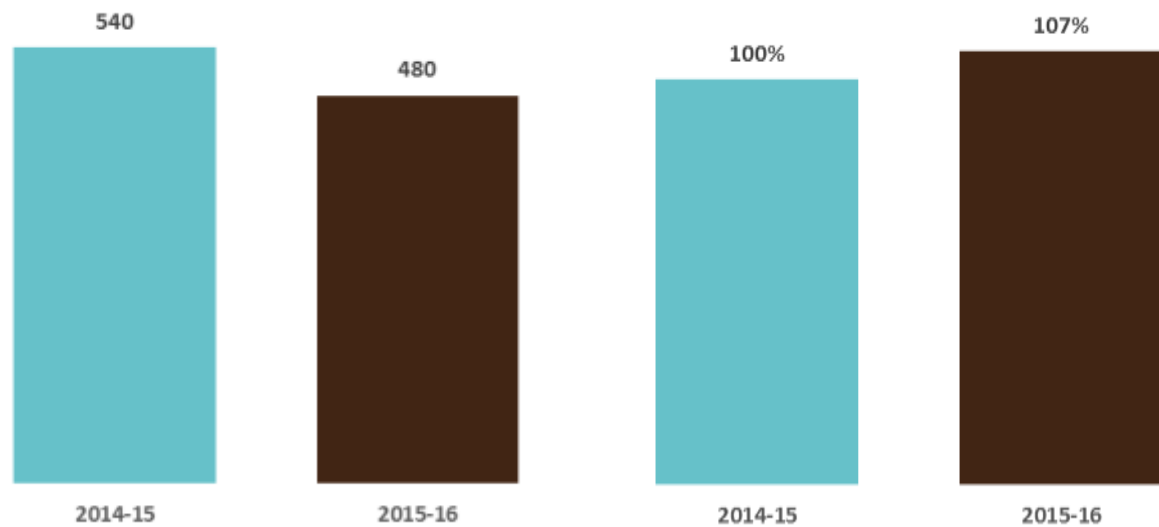
Appeals Division

The 2015-16 appeal applications represent an 11% decrease on 2014-15 (which, in itself, experienced an 8% decrease on 2013-14).

Appeals lodgements to the QCAT Appeal Tribunal.

The rate of appeal to the Court of Appeal is extremely low when compared to the total number of finalisations – 0.02%.

Facts and figures



Appeal lodgements to the QCAT Appeal Tribunal

QCAT Appeal Tribunal clearance rates

Data	2014-15	2015-16
Appeals from decisions of the Appeal Tribunal	21	18
Appeals from QCAT in its original jurisdiction	4	5

Appeals to the Court of Appeal