

**LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE
INQUIRY INTO ADMINISTRATIVE TRIBUNALS BILL 2023 [PROVISIONS] AND
RELATED BILLS**

PUBLIC HEARING, 26 APRIL 2024

Administrative Appeals Tribunal

**Question 6 – Administrative Appeals Tribunal member workload reports provided to
the Attorney-General’s Department in relation to applications for appointment to the
Administrative Review Tribunal**

Senator Shoebridge asked the following question on 26 April 2024:

Senator SHOEBRIDGE: When it comes to reappointments, do you know what, if any, information about members' performance is provided?

Mr Hawkins: During the current process, the tribunal provided a proforma member workload report to the Attorney-General's Department. They varied slightly between divisions, because we have three different case-management systems in the data being recovered from them. For our process, we prepared those reports and provided them to the members first for comment. After that, the reports were then provided directly by the tribunal to the department. In addition, I recall the department providing to division heads, deputy presidents or senior members, depending on who the supervising member was, a proforma reference form that could be provided in relation to those internal members seeking reappointment.

Senator SHOEBRIDGE: Were those references visible to the tribunal members?

Mr Hawkins: I understood—but you may want to clarify this with AGD—that the department provided them to the members upon receipt.

Senator SHOEBRIDGE: Would you be in a position to provide all of those proformas to the committee? I'm not asking for the individual assessments but the proforma sheets that we use for the three divisions.

Mr Hawkins: I can give you a sample, together with a memorandum that we provided for the benefit of panels to understand what the member workload reports represented.

Senator SHOEBRIDGE: That would be incredibly helpful. Thank you, Registrar. Did they include any data—for example, in a social security division—about decisions set aside or any of that sort of outcome data?

Mr Hawkins: I'm not sure that appeal information was included on those reports. I'm not sure that case-management systems had that ability to record it. But could I take that on notice?

Senator SHOEBRIDGE: What about the members' own decision-making—the number of times in which, say, Services Australia's decisions were overturned? I assume that data was included.

Mr Hawkins: I would have to take that on notice as well. It will certainly be provided in the sample for you.

Senator SHOEBRIDGE: I think there are multiple reasons for us to have some visibility of this process. One of the concerns that have been raised with my office has been that, if a member's performance in terms of how often they disagreed with the executive were part of the information being provided, that might have an impact on at least the perception of the independence of tribunal members. But, sitting there now, you can't say whether that information was or wasn't provided?

Mr Hawkins: No, I can't say that. I think it was more directed at the number of finalisations they reached.

The response to the senator's question is as follows:

The Attorney-General's Department requested the Administrative Appeals Tribunal (AAT) to provide references for AAT members seeking appointment to the Administrative Review Tribunal in the following form:

- a report of workload data
- a referee report completed by a Division Head or another member of appropriate seniority with knowledge of the member's work using a standard form provided by the Attorney-General's Department.

AAT member workload data reports

Attached is a copy of the background briefing provided to the Attorney-General's Department by the AAT. The briefing contains samples of the 3 different types of member workload reports provided, one for each case management system. The briefing was prepared to assist panellists to interpret the member workload reports and provide contextual information.

The content of the member workload reports varies. The reports for the Migration and Refugee Division and the Social Services and Child Support Division contain review outcomes data, that is, the number of decisions set aside or varied, affirmed, withdrawn, no jurisdiction or otherwise dismissed.

Referee reports

The AAT understands the Attorney-General's Department has been asked to provide a copy of the referee report proforma.

BACKGROUND BRIEFING

Introduction

This briefing is intended for use by assessment panels established to assess applications for appointment to the Administrative Review Tribunal (ART) at the Member level, which closed on 23 October 2023. The AAT has prepared this briefing to assist panels to interpret the member workload reports which accompany the references provided for existing AAT members who have applied to be appointed to the ART, and to provide some information about the context in which members of the AAT undertake their work.

Sample workload reports for the Migration and Refugee Division, Social Services and Child Support Division, and the remaining divisions (collectively referred to within the AAT as the 'General and other Divisions') are in attachments A, B and C respectively. The 3 different report formats reflect the fact that there are 3 different case management systems and differing features of the review process in those divisions. Where a member hears cases across more than one of these divisions or group of divisions, they will have more than one workload report and, in some instances, a referee report from each relevant Division Head. In most instances, however, members work primarily in a single division.

The AAT's caseload

The AAT reviews decisions made under more than 400 Commonwealth Acts and legislative instruments. The types of decisions most commonly reviewed relate to:

- migration and refugee visas
- family assistance and social security
- the National Disability Insurance Scheme
- Australian citizenship
- child support
- taxation
- veterans' entitlements
- workers' compensation under Commonwealth laws.

The AAT's powers and procedures are set out primarily in the *Administrative Appeals Tribunal Act 1975*, in Parts 5 and 7 of the *Migration Act 1958* and in social services legislation. The AAT's processes vary according to the type of decision under review, reflecting procedural requirements set out in legislation as well as case management approaches that have been developed to deal with the broad range of decisions that come before the AAT.

In the Migration and Refugee Division and the Social Services and Child Support Division, the decision-making agency does not take an active part in the review. In the other divisions, the decision-maker is an active party.

In some types of reviews, the AAT holds conferences or directions hearings to talk to the parties about the issues and give directions about what the parties must do and by when to

progress the case. When a review involves more than one party, the AAT usually tries to help them reach an agreed outcome without the need for a hearing, while ensuring steps are taken to prepare for a hearing in the event it cannot be resolved by agreement.

As well as conferences, other types of alternative dispute resolution (ADR) processes are used to resolve cases by agreement, including conciliation, mediation, case appraisal and neutral evaluation. In other types of reviews, the case is listed directly for a hearing conducted by a member.

Some of the key differences in the review processes are discussed in more detail below. Further information about the AAT's caseload and processes can be found on the AAT website:

- [Annual reports](#)
- [Practice directions, guides and guidelines](#)
- [Caseload statistics](#)

Hearings

The number and type of hearing events varies across the AAT's divisions. Types of hearing events include:

- ***Substantive hearings*** at which the parties present evidence and submissions to the Tribunal member(s) who will decide the case.
- ***Directions hearings*** (or in the case of the Migration and Refugee Division case management hearings) conducted by a Tribunal member to discuss the progress of a case or deal with issues arising in a case, particularly if there has been delay by a party or in more complicated cases.

The legislation governing the AAT's procedures provides that directions hearings may be held in all divisions other than the Migration and Refugee Division. Directions hearings are common in the General & other Divisions. In the Social Services and Child Support Division, they occur regularly in part of the child support caseload. Case management hearings are increasingly being conducted in the Migration and Refugee Division as part of the case management process.

- ***Interlocutory hearings*** in relation to an application made by a party that relates to an application for a review of a decision, including any of the following kinds of application: to extend the time to lodge an application for a review; that the Tribunal does not have jurisdiction to review the decision; to be joined as a party to a proceeding; to make a confidentiality order; to stay the operation or implementation of the decision under review; to dismiss an application; or to reinstate an application.

Interlocutory hearings are listed regularly in the General & other Divisions, particularly where an application is opposed by another party, to a lesser extent in the Social Services and Child Support Division and not at all in the Migration and Refugee Division.

Members in all divisions, including the Migration and Refugee Division, may make various interlocutory orders and directions on the papers. These orders and directions are recorded in the case management system but are not recorded as case events and therefore are not included in the case events data for the members.

In the majority of cases in the Social Services and Child Support Division, a single hearing of less than one day's duration is held. While hearings in Migration and Refugee Division cases are not listed over multiple days, it is not uncommon for them to be listed for part of a day with a resumed hearing on second or subsequent days. In contrast, cases in the General & other Divisions frequently involve multiple types of hearing events, including directions hearings and/or interlocutory hearings, and substantive hearings may take place over a number of days.

Decisions

Following a substantive hearing, the Tribunal makes a decision. Members have the power to:

- affirm a decision
- vary a decision
- set aside a decision and substitute a new decision, or
- remit a decision to the decision-maker for reconsideration.

The Tribunal must give reasons for the decision. The decision and reasons may be given verbally on the day of the hearing or given in writing at a later date.

Applications may be finalised in a range of ways other than by a decision following a substantive hearing before a member.

Applications finalised by consent

Applications finalised 'by consent' include:

- applications finalised by making a decision to affirm the decision under review, vary the decision or set the decision aside and substitute a new decision, or to remit the matter for reconsideration in accordance with terms of agreement reached by the parties either in the course of an ADR process (section 34D of the AAT Act) or at any stage of review proceedings (section 42C of the AAT Act), and
- applications dismissed by consent under section 42A(1) of the AAT Act.

Before finalising an application by consent under section 34D or 42C of the AAT Act, a member must be satisfied that the proposed decision set out in the signed terms of agreement would be within the powers of the Tribunal and that it appears appropriate to make the decision. This assessment includes considering whether the proposed decision is one that can be lawfully made by a decision-maker applying the relevant legislative criteria and the scope of the Tribunal's jurisdiction to review the decision.

Applications are not finalised by consent in the Migration and Refugee Division although the Division does undertake case management and as a result of this applications may be withdrawn. These cases are referred to a roster for consideration of whether a withdrawal should be accepted or is validly made. In the Social Services and Child Support Division, finalisations by consent occur mainly in child support cases.

No jurisdiction

Some applications for review are recorded as having been dismissed or otherwise finalised on the basis of a finding that the AAT cannot review the decision. This includes findings that the AAT has no jurisdiction because:

- the decision is not subject to review by the AAT, including because no required internal review has been undertaken
- the applicant does not have standing to apply for a review of the decision, for example because they are not in Australia and are required to be to make a valid application
- the application has not been made within any prescribed time limit (with no application for an extension of time made in those divisions where that option is available), or
- any applicable application fee has not been paid.

Dismissal

In the case of applications finalised in the Migration and Refugee Division, dismissed applications include making a decision under section 362B or 426A of the Migration Act to confirm a decision to dismiss the application where the applicant failed to appear before the Tribunal at a hearing, and for applications finalised in other divisions, this includes making a decision to dismiss the application under section 42A(2) of the AAT Act (failure to appear at an ADR process, directions hearing or hearing), section 42A(5) (failure to proceed with an application or to comply with a direction of the AAT) or 42B (application is frivolous, vexatious, misconceived, lacking in substance, has no reasonable prospect of success or is an abuse of the process of the AAT).

Cases finalised in these ways vary widely and can involve significant member work. For example, cases in the Migration and Refugee Division and Social Services and Child Support Division often require significant member involvement with pre-hearing preparation, attendance at a hearing, preparation of an initial dismissal decision and then, in the Migration and Refugee Division, consideration of an application for reinstatement or confirmation of the dismissal 14 days after the person has been notified of the dismissal decision. These cases can often take at least half a day and if an application for reinstatement is received, consideration of the application will take more time. A decision about reinstatement or a refusal to reinstate and confirmation of the dismissal in the Migration and Refugee Division requires a separate written decision, although this is only recorded in the case management system as one finalisation.

Leadership roles

In addition to their core work as decision-makers, some members undertake leadership and case management functions or management of a designated practice area. For example, Division Heads, Deputy Division Heads, or Practice Leaders, may undertake duties related to these roles. Members may also dedicate a proportion of their time to roles as members of internal AAT committees or groups, or external committees or groups. The extent of the work and time commitment involved for these roles and membership of committees or groups varies considerably.

Division Heads are responsible for assisting the President in the performance of the President's functions by directing the business of the Tribunal in their respective divisions. The majority of a Division Head's time is spent undertaking this function.

Practice Leaders are responsible for supporting and mentoring groups of members or coordinating and managing a designated practice area. In the Migration and Refugee Division and Social Services and Child Support Division, the expectations of Practice Leaders in terms of cases finalised (expressed as 'benchmarks') are usually adjusted downward to reflect the

workload associated with the role of Practice Leader. The size of the adjustment to Practice Leaders' benchmarks in the Migration and Refugee Division depends on factors such as the size of the caseload they manage, the size of the member team they lead, or the extent of the case management work (other than hearing and deciding matters) required.

From time to time, some members have been involved in mentoring, training, external presentations, in reviewing internal documents or external submissions and documents, such as protocols and practice directions, and recruitment or procurement exercises. This work is generally undertaken as part of the member's role and is restricted in scope and duration.

Persona designata functions

Some members exercise powers under a range of other Acts in their personal capacity. This includes functions such as considering applications for the issue of warrants under the *Surveillance Devices Act 2004* or the *Telecommunications (Interception and Access) Act 1979*. This work can involve the allocation of significant member time. For example, in 2022–23, members considered applications relating to warrants, controlled operations and other functions on 2,359 occasions. A number of members are also appointed as approved examiners under the *Proceeds of Crime Act 2002*. During 2022–23, AAT members were involved in 109 examination sessions. While the AAT supports members to undertake these functions as part of the broader administration of justice and law enforcement, they are not functions of the Tribunal itself.

Member performance and output

The number of applications finalised by a member and the amount of time taken to finalise applications can be affected by a range of factors.

The total number of applications finalised by a member does not provide a comprehensive representation of the work undertaken by a member because the amount of time required to finalise individual applications varies considerably. Some cases are complex, may involve interlocutory applications, extensive case management, including directions hearings, and/or lengthy hearings and written statements of reasons for decision. Some applications may require more than one hearing and more than one written decision. These count as one finalised application. Other cases may be less complex and more easily resolved. These variations apply for all divisions with some more experienced members undertaking a higher proportion of the more complex and difficult reviews.

The number of applications part-time members finalise in a given period depends on their availability to undertake work in the AAT in the context of their personal and professional circumstances, their suitability to undertake different kinds of work and the number of applications the AAT allocates to them. For example, some part-time members who are appointed on the basis of particular specialist expertise may only be required from time to time.

Members may undertake work on cases that do not proceed to finalisation or are finalised by other members. For example, applications may be settled or withdrawn shortly prior to, during or after a hearing, after work has already been undertaken. Some members undertake ADR processes, case management tasks or deal with interlocutory applications in cases that may ultimately be decided by another member.

Some members' functions include finalising applications by making consent decisions in accordance with terms of agreement reached by the parties or by making decisions on the

papers about matters such as jurisdiction. In the Migration and Refugee Division, certain members finalise cases through a roster, without receiving a case day weighting. These cases are similar to consent decisions made in the other Divisions in that they generally require minimal work. Consent decisions and cases finalised as part of a roster should therefore be distinguished from other 'substantive' decisions when considering data relating to the number of applications finalised in member workload reports.

The timing of the commencement or end of a member's appointment may also affect the number cases a member is able to finalise in a given financial year. Members do not necessarily commence immediately on being appointed to the AAT. They are required to undertake an induction process before commencing work on cases and for various reasons there can be some delay before they are allocated work. Periods of leave, including extended leave, may also affect the number of cases finalised by members.

Leadership roles, designated practice area management roles, and persona designata functions may also affect the number of cases finalised by members undertaking these roles and functions.

The skills, experience and seniority of members affect the nature of the applications allocated to them. This may also affect the number of applications they may be able to finalise and the timeliness of doing so, as do other matters relating to a member's proficiency. The number of applications finalised by a member is only one of several indicia considered in relation to a member's workload and output. Other indicia include:

- the complexity and diversity of the member's caseload
- timeliness of reviews
- where relevant for members undertaking work in the Migration and Refugee Division, the member's results against their benchmark
- the quality of decision-making
- the number and outcomes of further reviews, appeals and judicial review applications, and
- the contribution that the member makes towards the business of the division, projects and professional development.

Migration and Refugee Division

In the Migration and Refugee Division the issue of varying case complexity has been addressed by the allocation of standard weightings in the form of 'case days' to different categories of case. This allows for a more accurate and useful assessment of workload. For instance, based only on the number of finalisations, a member who finalised 300 cases relating to a student visa refusal in a financial year may appear more productive than a member who has finalised 65 complex cases relating to a protection visa cancellation or a protection visa case remitted to the AAT by a court. The allocation of greater weighting (or more case days) to more complex categories of case recognises the effort and time involved in these cases.

In the example above, the 300 cases relating to a student visa refusal finalised by the first member represents only 150 case days, while the 65 more complex cases finalised by the second member equates to 260 case days. Given that it is assumed that there are 230 available case days for members in this Division in a financial year (taking into account work

days and excluding annual leave entitlements) it is apparent that despite their lower number of finalisations, the second member has been highly productive.

The current case days system was introduced in this Division in 2019 to facilitate valid comparison and give greater emphasis to the finalisation of complex cases rather than focussing solely on the volume of cases finalised. The total number of cases finalised in the Migration and Refugee Division is therefore less informative as an indicator of performance or productivity than the finalisation of case days against benchmarks. Reporting in the Division is focussed on case days, benchmarks and other measures that more accurately reflect performance.

From time-to-time Senior Members and Members (particularly Practice Leaders) may finalise cases as part of a project where cases have been case managed and involve a single or straightforward issue. A group of these cases may be allocated to a member to finalise with little or no case day weighting. They will be included in the member's finalisation numbers but will involve minimal work, which is reflected in the case days associated with their finalisation.

It is expected that most cases should be able to be finalised within 180 calendar days from constitution. If a matter is not finalised within this timeframe the case will become identified as a case that is significantly over time standards (SOT). These cases are actively monitored by the Division Head and Practice Leaders and are recorded in member performance reports.

Member performance is assessed having regard to benchmarks, complexity and diversity of the member's caseload, timeliness, quality of decision-making (including outcomes of judicial reviews) and their contribution to the Division through work on projects, committees, stakeholder engagement and professional development, over and above their designated roles. Much of this data is set out in the Migration and Refugee Division Member workload reports (annotated sample in Attachment A, including explanatory notes) although the reports provided do not include data on judicial review and the contribution of members to the Division.

Social Services and Child Support Division

The Social Services and Child Support Division has developed a similar case weighting system based on the concept of the expected number of case days required to finalise case types of differing complexity within the Division. Case weightings in this Division were developed in 2021 and are used primarily to inform the equitable allocation of work to members. While the use of case weightings as a basis for measuring members' productivity has been limited to full-time members to date, case weighting information provides an insight into the complexity of the work undertaken by members in this Division.

In this Division, members may defer making a decision following a hearing in some circumstances, such as where a finding of fact relevant to the decision under review cannot be made without additional information. Timeframes for making a deferred decision are set in policy and vary between 2 and 5 weeks depending on the case type.

Supplementary information accompanying member dashboard reports is in Attachment B.

FOI, General, NDIS, Security, Taxation & Commercial, Small Business Taxation and Veterans' Appeals Divisions

There is no case weighting model or other guide in place as to the standard time required to finalise cases of different levels of complexity across the wide range of matters dealt with in these divisions.

In these divisions, a 60-day internal timeframe applies to the finalisation of decisions after they have been reserved following the last substantive hearing or the receipt of further information after the hearing.

A sample workload report is in Attachment C.



Member's name: MRD Member workload report

Report period: 1 July 2022 to 30 June 2023
Location: STATE
Team: SMT#

Benchmark progress

Negative figure in red denotes benchmark was not reached, positive figure in green denotes benchmark was exceeded.

SOT case data in this section is only for cases still active at end of period.

Benchmark percent variance compared to pro rata percent	Overall benchmark progress (%)			Active SOT cases			Decision FTE
	Decided	Active	To be constituted	No. of SOT (cases)	Oldest SOT case (days)	Avg SOT age (days)	
-13	87%	20%	-6%	1	229	229	0.93

Calculation of pro rata based on current date in financial year for full-time members and days worked as a proportion of total approved days for part-time members. Overall benchmark progress includes non-benchmark cases. 'Benchmark percent variance compared to pro rata percent' measures how far in front or behind of pro rata a member is in their benchmark decision progress. Cases Significantly Over Time Standards (SOT) are those active cases with Members more than 180 calendar days since constitution.

Benchmarks (days)	Overall ¹	Business	Non-Benchmark
Total case days	213	213	0
Case days decided (pro rata ²)	184.5 (213.0)	184.5 (213.0)	0.0 (0.0)
Active case days	42.0	42.0	0.0
Further case days to be constituted	0.0	0.0	0.0

'Non-benchmark' cases include those cases members have been allocated and decided that do not fall within the caseloads assigned for that FY.

¹Overall progress includes non-benchmark decided and active case days. ²Based on 220 days worked out of a total of 220 approved days.

Complexity of decided and active cases

Each case carries a case weighting in number of 'case days' it should take on average for a member to decide. Weightings range from most complex (A=4 case days) to least complex (F=0.5 case days). Cases decided via a duty member roster are assigned 'No weighting' and are not included in counts for the 'Outcomes and timeliness' and 'Hearing information for decided cases' tables.

Complexity	A	B	C	D	E	F	No weighting	Total
Decided	0 (0%)	0 (0%)	6 (4%)	60 (36%)	63 (38%)	39 (23%)	1	169 (100%)
Active	0 (0%)	0 (0%)	0 (0%)	16 (47%)	18 (53%)	0 (0%)	0	34 (100%)

No weighting: This complexity group includes pre-constitution NJs/withdrawals as well as other matters managed through the Duty Member roster or other specific case management initiatives.

Outcomes and timeliness

'S/A' refers to a decision to set aside and/or remit the decision under review.

'NJ/Withdn' refers to case finalisations where a member has found that the Tribunal has no jurisdiction to conduct a review, or where the applicant has withdrawn their application for review.

'BV(d)' refers to time limited reviews where the applicant has been placed in immigration detention as a result of a decision to refuse or cancel a bridging visa.

Category	Decisions	% S/A	% Affirmed	% NJ/ Withdn	% BV(d) within 7 working days	% All other within 180 cal days
Member's name						
Nomination/Sponsor approval	95	39%	56%	5%	N/A	95%
Permanent business	66	59%	30%	11%	N/A	88%
Temporary work	7	71%	14%	14%	N/A	86%
Nationally						
Nomination/Sponsor approval	1,482	42%	49%	9%	N/A	93%
Permanent business	1,569	44%	42%	14%	N/A	91%
Temporary work	697	33%	42%	26%	N/A	92%

Note: Data counts in the above table do not include NJ complexity rated cases.

This part of the table provides national averages for all finalised cases for the period by particular case category to facilitate comparison.

This measures the percentage of cases finalised within the significantly over time 180 calendar day time standard and is therefore a better indication of timeliness over the course of the year than the 'Active SOT cases' information at the top of the report.

Hearing information for decided cases

Category	% Decisions with hearing	% Decisions with more than 1 hearing	Avg in-person hearing duration (min)	Avg list hearing duration (min)	Avg tele/vid hearing duration (min)	% Decisions interpreter booked	% Decisions applicant no show
Member'							
Nomination/Sponsor approval	53%	9%	158	N/A	98	16%	1%
Permanent business	83%	8%	118	N/A	88	30%	2%
Temporary work	71%	14%	N/A	N/A	76	14%	0%
Nationally							
Nomination/Sponsor approval	42%	2%	85	N/A	72	12%	2%
Permanent business	50%	1%	75	25	69	19%	4%
Temporary work	44%	2%	66	23	56	18%	6%

Explanatory notes:

- The time standards in *Outcomes and timeliness* are calculated from the date of constitution. Both the *Outcomes and timeliness* and *Hearing information for decided cases* tables exclude NJ complexity rated cases.
- '% Decisions with hearing' = % Decisions that had at least one adjourned or completed hearing.
- '% Decisions with more than 1 hearing' = % Decisions that had more than one adjourned or completed hearing.
- 'Avg in-person hearing duration (min)' = Average duration from actual start to actual finish of standard hearings finalised as adjourned or completed.
- 'Avg list hearing duration (min)' = Average duration from actual start to actual finish of hearing list (MAHL) hearings finalised as adjourned or completed.
- 'Avg tele/vid hearing duration (min)' = Average duration from actual start to actual finish of teleconference and video hearings finalised as adjourned or completed.
- Avg in-person hearing duration: Multiple hearings on the same case are counted separately and as such may distort hearing data analysis.
- Avg in-person hearing duration: The time taken in evidence power hearings by a delegated officer to collect evidence is not counted as hearing time and as such may distort hearing data analysis.
- Avg list hearing duration: Includes evidence power hearings by a delegate officer.
- '% Decisions interpreter booked' = % Decisions that had at least one adjourned or completed hearing that had an interpreter booking.
- '% Decisions applicant no show' = % Decisions that had at least one 'No show' hearing outcome.
- It is possible for a decision to have both 'no show' and completed hearings.

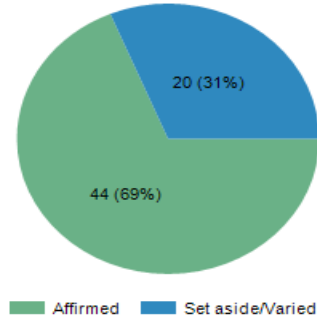
A note on MR Division Head references:

- Division Head references are based on the data in this report, judicial review outcomes over the period 2021-23 and discussions with Practice Leaders.
- The workload report does not include judicial review outcomes because the outcomes in isolation may be misleading. There is longitudinal data available on appeal outcomes for members which have been assessed and are included in the references to assist in evaluation of the quality of decision making.
- The Division Head is familiar with the nature and quality of 'decision-making and reasoning' of a number of members, but not all. Given the number of MRD members who require a reference, she is not able to undertake a comprehensive review of all members written decisions to properly assess whether members exceed, meet or do not or only partly meet this criterion in a fair and comparative manner. In the interests of fairness and given the limited time available, the Division Head has taken the more conservative but equitable approach to assess this criterion by reference to objective measures such as appeal outcomes.

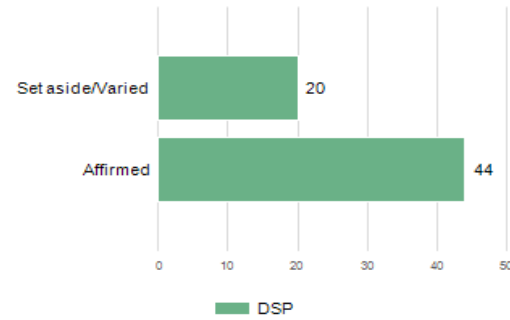
Attachment B: Sample SSCSD Member workload report

Member Name: SSCSD dashboard for 2022-23 as at 30/06/23*

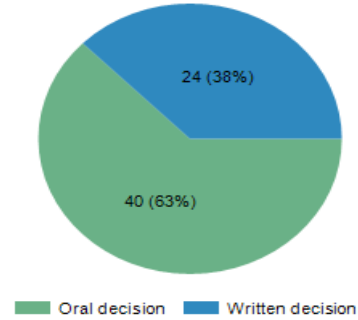
1.1 Total finalisations - SSCSD



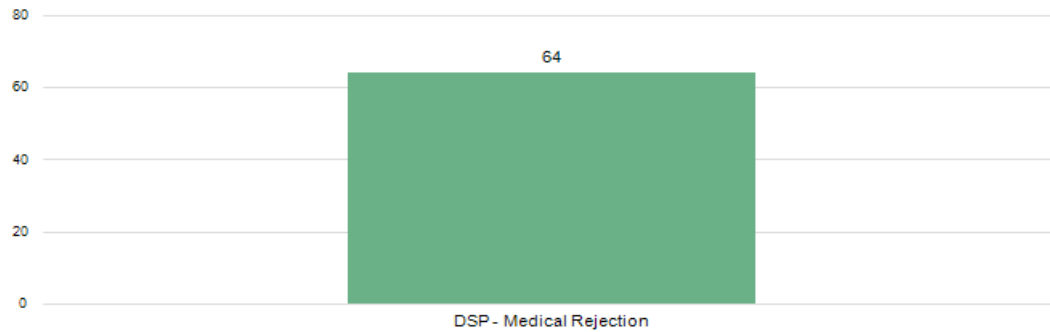
1.2 Finalisations by outcome



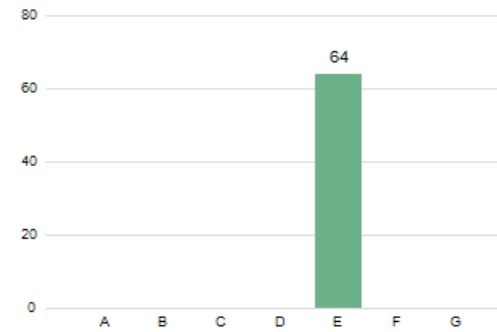
1.3 Substantive decisions by decision method



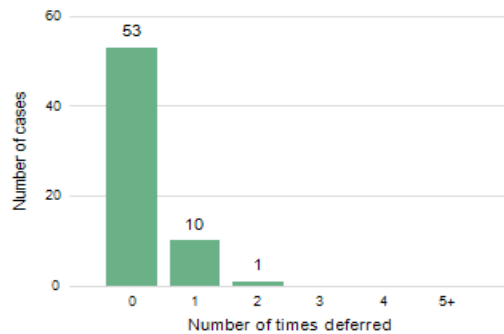
1.4 Finalisations by payment type



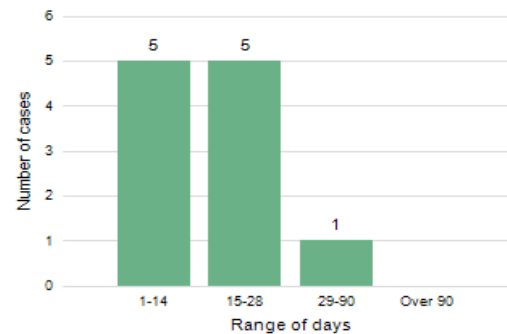
1.5 Finalisations by weighting



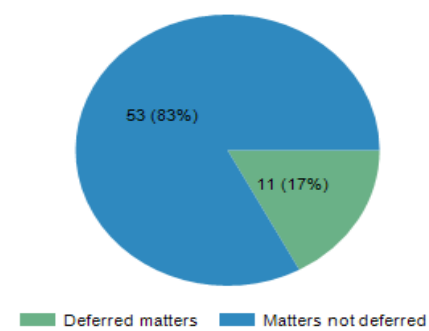
1.6 Times deferred - Count of finalisations



1.7 Deferral range - Count of finalisations



1.8 Proportion of cases deferred



*Data in this dashboard does not include cases that were finalised as second member, and the second member was not a Presiding member. Report as at . Report ref: SSCSD 2022-2023 Part-time Member.xlsx.

The SSCSD Member dashboard report counts substantive finalisations only. Substantive finalisations are where a decision is made in writing under section 43 of the AAT Act:

1. affirming the decision under review;
2. varying the decision under review; or
3. setting aside the decision under review and:
 - a. making a decision in substitution for the decision; or
 - b. remitting the matter for reconsideration in accordance with any direction or recommendations of the Tribunal.

Substantive finalisations in this report have been categorised by jurisdiction, or type of application:

- Child Support
- Paid Parental Leave
- Paid Parental Leave Employer
- Centrelink
- Disability Support Pension
- DSP – Medical
- DSP – Other

The following abbreviations are used in the report:

- SSCSD: Social Services and Child Support Division
- EOT: Extension of time. This refers to applications for an extension of time in which to make an application for review
- DSP: Disability Support Pension

There is a range of complexity in the cases that make up the caseload in the SSCSD. The SSCSD has assigned 'case weightings' to different types of application to reflect the varying levels of complexity of cases of different categories. Case weightings are expressed in terms of the average amount of time expected to be required to finalise a case of that type.

As well as the jurisdictional variation listed above, case complexity can be affected by matters such as the number of pages in the Tribunal papers and other matters.

The SSCSD's Case Weightings Policy sets out case weightings ranging from category A, being the most complex at 4 days, through to category F at half a day.

Category G cases are the least complex and are unweighted. These cases are usually finalised by full-time members who participate in a duty member roster.

Timeliness in the finalisation of cases in the SSCSD is affected by the number of times a member defers the finalisation of a case following a hearing, usually to allow time to prepare a written decision. Deferrals are more likely to occur in complex cases.

Member effort that is not counted in the member dashboard includes:

- Management of the division
- Project work
- Professional development
- Matters constituted to a non-presiding member
- Matters settled or withdrawn shortly prior to, during or after the hearing

Attachment C – Sample General and other Divisions member workload report

TRACS Practice Leader Report: 1/07/2022 to 30/06/2023

Member location: NSW

DISCLAIMER: This report relies on data extracted from the TRACS case management system, the accuracy of which may be affected by the quality and timeliness of data entry. The report does not represent the full workload of members and does not include time spent on the following: preparation for case events, decision-writing, general case management tasks and other non-case related activities¹⁴. The report does not identify the full workload of members who undertake work in the MRD and/or SSCSD.

First name	Surname	Member type	Timeliness			Hearings ¹¹						Finalisations						Substantive decisions by area of work																
			Reserved decisions ¹²	Reserved decisions >60 days	Days reserved longest period	Substantive hearing days ¹	Directions hearings	Interlocutory hearings - no jurisdiction	Interlocutory hearings - stay order	Interlocutory hearings - EOT	Interlocutory hearings - other ²	Future substantive hearing days ³	Total finalisations ⁴	Substantive decisions (s 43) ¹³	Decisions by consent	No jurisdiction ⁵	EOT ⁶	Other finalisations ⁷	Written decisions	Oral decisions	FOI	General - Citizenship	General - Centrelink (2nd review)	General - Visa related character decisions	General - Workers' Compensation	General - Other	NDIS	Security	SBTD	T&C - Tax	T&C - Other	Veterans' Affairs	Warrant appointments	Warrant days ⁸
		FTSM	0	0	0	0	2	1	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

¹ This counts days with at least one substantive hearing. It does not include hearings held on the papers.

² This includes the following hearing types - Joinder applications, Dismissal applications, Confidentially order applications, Reinstatement applications and other interlocutory hearings without a descriptor.

³ Substantive hearings and Proceeds of Crime Examinations scheduled for next two months, starting from the last date of reporting period.

⁴ This counts cases where a final outcome has been recorded, including substantive, consent and other decisions by a member.

⁵ Includes the outcome types 'Other - Heard - No jurisdiction', 'Other - Dismissed - No Fee Paid', 'Other - Dismissed - Non-reviewable under s 42A(4)', and 'Other - Application out of time - No EOT application received'.

⁶ Includes 'Other - EOT Refused' and 'Other AAT Act application - granted'.

⁷ Includes 'Other - Dismissed - Fail to proceed/comply with direction under s 42A(5)', 'Other - Dismissed - Frivolous or vexatious under s 42B(1)', 'Other - Dismissed - Non-appearance under s 42A(2)', 'Other AAT Act application - refused', 'Other AAT Act Application - other', and 'Other'.

⁸ This counts warrant appointments measured in days, where 1 day equates to 21 warrant appointments per day (at 20 mins each warrant appointment).

⁹ This counts days with at least one POC listing that went ahead.

¹⁰ This counts ADR case events, excluding conferences. Where there are multiple events on a single day, individual events are counted.

¹¹ This counts all case events for the different listing types. This does not differentiate between hearing duration.

¹² This counts only reserved decisions where no further submissions are due to be lodged. The duration includes any days where a draft decision is with a member's associate for editing and proofreading.

¹³ This counts all cases in which a decision was made under s 43, including where a single decision was issued for multiple linked and associated cases.

¹⁴ Examples of non-case related activities are tasks associated with the Practice Leader roles, participation in professional development activities, attendance at meetings etc.

FTDP Full-time Deputy President

FTSM Full-time Senior Member

FTM Full-time Member

PTDP Part-time Deputy President

PTSM Part-time Senior Member

PTM Part-time Member