

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO**

Program: Federal Court of Australia

Question No. AE17/013

Senator Watt asked the following question at the hearing on 28 February 2017:

Senator WATT: Could you take on notice to provide the number of orders issued by the Federal Court over, perhaps, the last three years?

Mr Soden: We could certainly do the number of orders issued, and that number would be an extremely high number. It would be more sensible, could I suggest, if it were orders in relation to cases by practice area or average number of orders per application before the court.

Senator WATT: Maybe administrative law matters?

Mr Soden: Yes, we could limit it to administrative law, if that was your preference.

Senator WATT: Yes, that would be great. Do you keep any statistics as to the number of occasions that Federal Court orders are not followed and not complied with by parties to litigation?

Mr Soden: No, we do not.

Senator WATT: Would that be something that you could dig out?

Mr Soden: I do not think so. We could probably find applications made in relation to orders not complied with, but we do not keep a record of orders not complied with per se.

Senator WATT: What is it exactly that you could dig out?

Mr Soden: We might be able to identify specific applications that are made to the court asserting a failure to comply with an order. I am not sure we can do that; we might be able to do that. Often orders are made and, subsequent, the parties agree to do things which may resolve the matter but not necessarily be strict compliance with the orders that are made.

Senator WATT: You do not have statistics to hand on the number of applications made to enforce orders that have not been complied with?

Mr Soden: No.

Senator WATT: Could you take that on notice?

Mr Soden: Yes, I can, but I indicate I do not think we would be able to produce that detail.

Senator WATT: In addition to a party being able to take action to enforce an order, is that always done via a contempt of court action, or are there other ways to do that?

Mr Soden: It all depends on the nature of the order. The answer is no. Contempt would be one of a number of options in relation to failing to comply with an order.

Senator WATT: If someone needed to bring an application based on a contempt of court for noncompliance with a Federal Court order, would that application be made to the Federal Court?

Mr Soden: It would.

Senator WATT: Could you, again, take on notice the number of applications that have been made alleging a contempt of the Federal Court for noncompliance with a Federal Court order?

Mr Soden: Yes, I will take that on notice.

The answer to the honourable senator’s question is as follows:

The number of orders recorded in the Federal Court’s case management system as being made in matters in the Court’s Administrative and Constitutional Law and Human Rights National Practice Area in each of the last three completed calendar years are:

Year	Orders Made
2014	1568
2015	1430
2016	1199

The Federal Court does not separately record in its case management system or elsewhere information about applications filed which would enable it to identify only those which assert a failure to comply with an order or seek enforcement of orders for non-compliance. The information requested could be provided only through a manual examination of every application filed in the Court in each of the three relevant years and this would require an unreasonable diversion of resources.

The Federal Court does not separately record in its case management system or elsewhere information about applications filed which would enable it to identify only those which allege a contempt of court for non-compliance with an order it has made. The information requested could be provided only through a manual examination of every application filed in the Court in each of the three relevant years and this would require an unreasonable diversion of resources.