

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
FEDERAL COURT AND NATIONAL NATIVE TITLE TRIBUNAL

Question No. 23

Senator O'Brien asked the following question at the hearing on 16 February 2004:

How efficient is the determination process, eg what is the average time for determinations? Please break down the information by category: consent determinations, litigated determinations and unopposed determinations, as to how long each one takes.

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

The National Native Title Tribunal (NNTT) has provided the following breakdown, by category, of native title determinations made to 26 February 2004. The time taken to determine native title is calculated from the time that a claim is lodged until a determination is made. In relation to litigated determinations the table does not include the time taken to hear and finalise appeals.

Determination Process	No. of Applications Determined	Average Resolution Time Months
Consent	27	50
Litigated	10	66
Unopposed	11	14

Source data as at 26 February 2004

Note The decision of the High Court in *Mabo v Queensland (No. 2)* (1992) 175 CLR 1 recognising the native title of the Murray Islanders is not included in the above calculations as it was determined in 1992 prior to the enactment of the *Native Title Act 1993*.

On the question of efficiency the NNTT notes that the time taken to resolve native title determination applications varies considerably and is affected by a range of factors. These include:

- the number of steps to determination. Broadly these include lodgement, registration, notification, mediation and court processes. Some of these steps have a prescribed time (such as notification) while others are very largely within the discretion of parties;
- the recent clarification of aspects of the law by the courts;
- the complexity of the law;
- the resources available in the native title system to parties, their representatives, Federal Court and NNTT;
- the number of parties involved with each application;
- the number of parcels of land and the complexity of the land tenure history of the areas over which the claims are made;
- parties pursuing simultaneously a range of other non-native title outcomes and native title outcomes including Indigenous Land Use Agreements and future act related outcomes;
- some consent determinations follow partial or completed trials eg Ward or Miriuwung Gajerrong which ran for 10 years from application to determination following lengthy trials and appeals to the full Federal Court and the High Court; and
- the policy positions of the various state and territory governments.

The Federal Court has provided the following additional information.

Since 30 September 1998 the Federal Court of Australia has had responsibility for the management and determination of native title applications. To perform these functions the Court has a wide range of powers in relation to the management and resolution of native title applications.

Under the regime, applications are filed in the Court and not the NNTT. Nevertheless the *Native Title Act* 1993 prescribes a mediation process and once the Court is satisfied that the application as filed meets the requirements of the Act it refers the application to the NNTT, which applies a registration test to determine whether the native title applicant has the right to negotiate. The NNTT undertakes the mediation of an application once it has been notified, the respondents identified and it has been referred to the NNTT by the Court.

Strategic Management of Native Title Cases

In 1999 the Court fixed a time goal of 3 years within which it thought most cases should be finalised. It was necessary, however, due to the incapacity of parties to work within the time goal, to modify the time goal in 2001 to be *“That the three-year time goal for disposition of native title matters be treated as a desirable objective for the time elapsed between substantive allocation and final determination subject to factors beyond the control of the Court including resource limitations of the parties and related to that the need to establish regional priorities for mediation and litigation of applications”*.

Native title is now widely recognised as a complex area of law with a developing jurisprudence. In addition to the legal complexity, native title litigation is frequently time-consuming and resource intensive, involving a range of parties (including indigenous people, governments and industry) and various evidential issues (including the need to hear evidence in remote locations, and to take evidence from elders and other witnesses who may not be living by the time a matter comes to trial). Most cases include many issues that need to be determined including the question of whether or not native title exists, is extinguished or otherwise, in respect of various parcels of land within the one claim.

The Court is committed to identifying every possible way in which it might ensure that these complexities do not prevent the determination of claims within a reasonable timeframe. To this end, the Court has adopted an active and innovative approach to the effective and efficient management of native title cases, which aims to create and support a culture of activity and progress. Some initiatives in relation to its Alternative Dispute Resolution methods have been controversial, such as the Court appointing its own expert and engaging an expert to give a neutral evaluation of the strengths and weakness of a case.

Active judicial case management of native title cases since 1998 has led to a substantial number of native title applications being amended, combined, withdrawn, discontinued and determined. At 31 January 2004 there were 600 active claimant applications before the Court, of which the NNTT was mediating 360. There were also 21 compensation claims.

44 Native Title Determinations have been made since September 1998.

The average time for determinations for claimant applications is 5 years. However that figure is misleading as it includes extremes at either end of the scale. It is, we suggest, more appropriate to

look at what has occurred in particular cases, some illustrative examples of which are set out in the attached table.

Table to Question on Notice 23 – Prepared by the Federal Court

Yorta Yorta Aboriginal Community VG 6001/95	21/2/1994	26/5/1995	2/8/1995	8/10/1996	15/5/1998	18/12/1998	Total 4 years and 10 months
	Date Lodged with NNTT	Date Filed with Federal Court	First Directions Date	First Hearing Date	Judgment Reserved Date	First Instance Judgment Delivered Date	
Ben Ward & Ors (Miruiwong Gajerrong) WG 6001/95	6/4/1994	7/2/1995	17/3/1995	17/2/1997	9/4/1998	24/11/1998	Total 4 years and 7 months
	Date Lodged with NNTT	Date Filed with Federal Court	First Directions Date	First Hearing Date	Judgment Reserved Date	First Instance Judgment Delivered Date	
Mary Yarmirr & Ors (Croker Island) DG 6001/96	22/11/1994	7/6/1996	4/7/1996	15/4/1997	23/4/1998	4/9/1998	Total 3 years and 10 months
	Date Lodged with NNTT	Date Filed with Federal Court	First Directions Date	First Hearing Date	Judgment Reserved Date	First Instance Judgment Delivered Date	
Myra Hayes & Ors (Arrentre) DG6002/96	31/8/1994	12/6/1996	4/7/1996	1/7/1997	9/2/1999	9/9/1999	Total 5 years
	Date Lodged with NNTT	Date Filed with Federal Court	First Directions Date	First Hearing Date	Judgment Reserved Date	First Instance Judgment Delivered Date	

Mediated Determinations

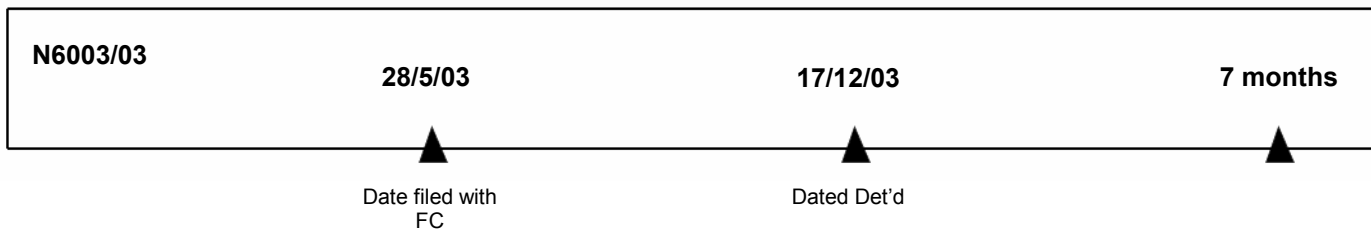
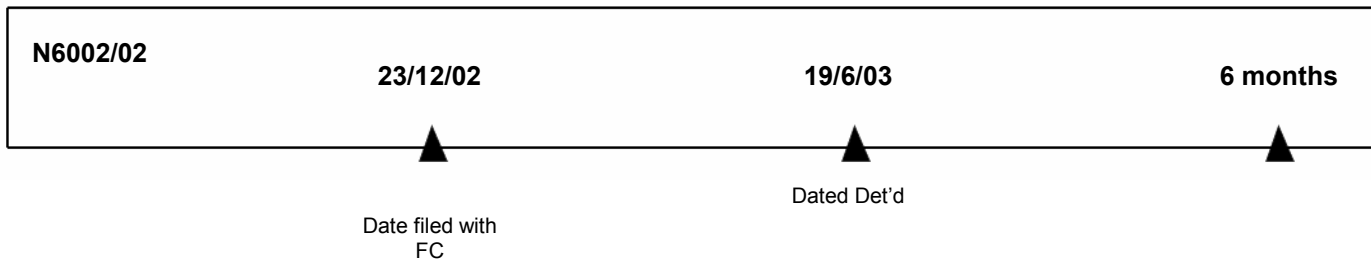


Total 3 years and 5 months



Total 6 years and 3 months

Unopposed – non claimant determination applications



SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

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Question No. 24

Senator Ludwig asked the following question at the hearing on 16 February 2004:

Can you advise the committee as to what the intention of government is in respect of the two acting positions that have now become vacant? [Race Discrimination Commissioner, and Disability Discrimination Commissioner].

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

The positions of acting Race Discrimination Commissioner and acting Disability Discrimination Commissioner are currently filled on an acting basis by a Commissioner who has been appointed, substantively, to another Commissioner position. The Human Rights Commissioner, Dr Sev Ozdowski, is acting Disability Discrimination Commissioner and the Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr Bill Jonas, is the acting Race Discrimination Commissioner. Both acting appointments expire on 3 April 2004 and the government intends to fill the positions by appointing members of the Commission, other than the President, to those positions on an acting basis.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 25

Senator Ludwig asked the following question at the hearing on 16 February 2004:

How many complaints do you receive under part IIIA of the Privacy Act? Are they detailed in that they are broken down into the type or nature of the complaint and how much they involve?

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

Section 36 of the Privacy Act provides that individuals may complain to the Privacy Commissioner about acts or practices of either credit providers or credit reporting agencies that may be interferences with their privacy. Since 1 July 2001 the Office has received 531 credit reporting complaints¹. The complaints raise a range of issues about the practices of credit providers and credit reporting agencies. Table 1 below sets out in broad terms the nature of the issues raised in 525 of the complaints. The figures represent issues raised in complaints not the Office's findings in relation to these complaints (which are set out in response to question 34 below).

The category 'disputed default' attracts the most complaints. The issue generally arises when an individual considers that a credit provider has listed a default with the credit reporting agency in error, for example because there was no default, it was not 60 days overdue, or there is another problem with the listing.

The Office produced a new complaints management system in July 2001 in part to improve its ability to record and analyse complaint handling performance. The previous system does not provide detailed statistical reports.

Table 1 Issues Raised In Credit Reporting Complaints Received Since 1 July 2001		
Issue	No. of complaints	% of Total
credit reporting agency - accuracy	6	1.14%
credit provider - accuracy of credit report 18E(8)(b)	79	15.05%
credit provider - disclosure s.18N(1)	49	9.33%
credit provider - failed inform CRA s.18F(3)	16	3.05%
credit provider – failed to give notice s.18E(8)(c)	17	3.24%
credit provider – failed to notify C s.18M	3	0.57%
credit provider - not permitted content 18E(8)(a)	6	1.14%
credit provider - security credit reports s.18G(b)	2	0.38%
credit provider - used credit report s.18L(4)	6	1.14%
credit reporting agency - access to C s.18H	8	1.52%
credit reporting agency - accuracy credit report s.18J	44	8.38%
credit reporting agency - improper disclosure s.18K(1)	4	0.76%

¹ The numbers vary slightly because in some cases the issue raised may not be clear.

credit reporting agency - not permitted s.18E(1)	16	3.05%
Credit Reporting Code of Conduct Issues	4	0.76%
credit reporting offence s.18R, S or T	11	2.10%
disputed clear out – generally credit provider	9	1.71%
disputed default – generally credit provider	240	45.71%
None	5	0.95%
Total	525	100.00%

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 26

Senator Ludwig asked the following question at the hearing on 16 February 2004:

In relation to credit reporting, how long does it take you, aside from the triage, to respond to complaints that have been made?

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

Table 2 below sets the number of days on average it has taken to close credit reporting complaints since 1 July 2001. We have not excluded complaints that have been investigated urgently on the basis of the Office's triage criteria as these are not flagged in the system and there are a relatively small number of complaints in this category. The figures below include cases where the Office has declined to open a formal investigation, for example because the complainant has not given the respondent an opportunity to resolve the matter, or it is clear there has been no breach of the Privacy Act.

The Office produced a new complaints management system in July 2001 in part to improve its ability to record and analyse complaint handling performance. The previous system does not provide detailed information about the duration of investigations.

Table 2 Time Taken To Close Credit Reporting Complaints Since 1 July 2001			
No. of days to close complaint	No. of complaints	% of Total	% closed by no. of days
0 to 30	190	34.48%	34.48%
30 to 60	87	15.79%	50.27%
60 to 90	52	9.44%	59.71%
90 to 120	71	12.89%	72.60%
120 to 150	37	6.72%	79.31%
150 to 180	26	4.72%	84.03%
180 to 210	21	3.81%	87.84%
210 to 240	24	4.36%	92.20%
240 to 270	13	2.36%	94.56%
270 to 300	8	1.45%	96.01%
300 to 330	4	0.73%	96.73%
330 to 360	1	0.18%	96.91%
360 to 390	1	0.18%	97.10%
390 to 420	2	0.36%	97.46%
420 to 450	1	0.18%	97.64%
450 to 480	2	0.36%	98.00%
480 to 510	2	0.36%	98.37%
510 to 540	0	0.00%	98.37%
540 to 570	2	0.36%	98.73%
570 to 600	2	0.36%	99.09%
600 to 630	0	0.00%	99.09%

630 to 660	1	0.18%	99.27%
660 to 690	2	0.36%	99.64%
690 to 720	1	0.18%	99.82%
> 730	1	0.18%	100.00%
Total	551	100.00%	

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

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Question No. 27

Senator Ludwig asked the following question at the hearing on 16 February 2004

At the time of the last Estimates in November 2003, there was no Annual Report available.

- (a) Can you advise when the final copy of the Report was made available to Government, and when it was tabled?
- (b) What was the reason for its delay?
- (c) Can you provide, for the record, your most current information on the number of complaints received and dealt with?

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

- (a) and (b). The Minister received the annual report on 9 October 2003. A tabling brief was provided to the Minister on 28 October 2003. The report was tabled in the Senate on 31 October 2003 and in the House of Representatives on 4 November 2003.
- (c) To date for the 2003-2004 financial year the Office has received 784 complaints, has closed 845 complaints and has 446 complaints on hand of which 217 are in the queue (this is they have not been allocated to a case officer).

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

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Question No. 28

Senator Ludwig asked the following question at the hearing on 16 February 2004

We understand that Malcolm Crompton is leaving in April this year.

- a) Has the process for appointing a new Commissioner begun?
- b) When is an appointment likely to be announced?

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

- (a) Yes. The position was advertised on 20 September 2003 and a selection process is currently underway.
- (b) The timetable for appointment is a matter for the Government

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 29

Senator Ludwig asked the following question at the hearing on 16 February 2004:

Are you aware of any new Government legislation that is likely to have an impact on people's privacy (and resulting in more complaints to the Commission)? If yes, are you being provided with any additional funding to deal with this increase in demand (given existing resource problems and ability to deal with complaints)?

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

Yes. From the bills we have reviewed and advice provided to agencies and Government on privacy matters since November 2003, we consider that the following new legislation and bills currently before the Parliament may have an impact on people's privacy:

- *Higher Education Support Act 2003*
 - *Resources*: no additional funding provided.
- *Migration Legislation Amendment (Identification and Authentication) Act 2004*
 - *Resources*: no additional funding provided.
- *Spam Act 2003*
 - *Resources*: no additional funding provided.
- Australian Sports Drug Agency Amendment Bill 2004
 - *Resources*: no additional funding provided.
- Privacy Amendment Bill 2003
 - *Resources*: no additional funding provided.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.6

Question No. 30

Senator Ludwig asked the following question at the hearing on 16 February 2004

On 29 November 2000, the Attorney-General promised to review the application of the Privacy Act to employee records, and that review would 'be completed in time to assist the Privacy Commissioner when he conducts the more general review of the legislation two years after it commences operation'.

- (a) Has the Office of the Privacy Commissioner been involved in this review?
- (b) What has occurred as part of this review?
- (c) Has it been conducted publicly? If not, why not?
- (d) When will this review be completed?

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

- (a) The review of employee records privacy is being undertaken jointly by the Attorney-General's Department and the Department of Employment and Workplace Relations. Comments have been sought from the Office of the Privacy Commissioner on the discussion paper.
- (b) As part of the review, the Attorney-General's Department and the Department of Employment and Workplace Relations released a discussion paper on employee records privacy on 12 February 2004.
- (c) The Government consulted with some key stakeholders during the preparation of the issues paper. The discussion paper forms the basis of further consultation on the review. The paper has been distributed to employer groups, employee groups, the Office of the Privacy Commissioner and the States and Territories. The paper is also available on the Attorney-General's Department and the Department of Employment and Workplace Relations websites.
- (d) A report on the outcome of the review will be submitted to the Attorney-General and the Minister for Employment and Workplace Relations following consideration of submissions on the discussion paper.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

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Question No. 31

Senator Ludwig asked the following question at the hearing on 16 February 2004:

A review of the Privacy Act was due after 21 December last year. At the last Estimates we were told that the Attorney-General was considering how to deal with this.

Can you now advise what is happening with this review and whether it will be completed before the (experienced) current Privacy Commission departs?

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

The Attorney-General is currently considering the review. It is not expected that the review will be finalised before the completion of the current Privacy Commissioner's term.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 32

Senator Ludwig asked the following question at the hearing on 16 February 2004:

Please provide information on the types of complaints, numbers of complaints and time frames for resolution of those complaints for the past 5 years?

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

Table 3 below sets the total number of complaints received in each area of jurisdiction of the Privacy Act in the last five years. Prior to the 2000-2001 financial year the Office did not include matters where preliminary enquiries were made under s.42, or where investigation was declined under one of the discretions under s.41 in its complaint numbers. It is currently reporting on tax file number and spent convictions as one category because of the small number involved here.

Table 3 Total Complaints Received By Year					
	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004 (to 29 Feb)
Information Privacy Principles	21	98	118	128	118
Credit Reporting	39	90	181	208	137
Tax File Number	0	1	25	20	14
Spent Convictions	1	5			
National Privacy Principles	-	-	308	735	514
Total	61	194	632	1090	784

Table 4 below sets out the time taken to close all complaints for the last three financial years. It includes complaints that were closed without investigation, at the preliminary inquiry stage and following investigation. The figures also include the time that a complaint has been in the queue awaiting allocation to an investigator. The figures indicate that on average 95 -97% of complaints are closed within nine months.

The Office produced a new complaints management system in July 2001 in part to improve its ability to record and analyse complaint handling performance. Its previous system does not provide the information requested.

Table 4 Duration of investigation of all complaints

Time to close complaints	2001-02	2002-03	2003-04 YTD
Less than 10 days	14.40%	26.36%	31.43%
Less than 30 days	34.40%	45.01%	58.64%
Less than 60 days	56.27%	57.05%	68.84%
Less than 90 days	68.27%	67.15%	73.61%
Less than 180 days	84.53%	90.63%	85.31%
Less than 270 days	92.53%	96.40%	94.97%
Less than 360 days	95.73%	97.63%	97.55%
greater than 360 days	4.27%	2.37%	2.45%
Total	100.00%	100.00%	100.00%

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 33

Senator Ludwig asked the following question at the hearing on 16 February 2004:

Of the complaints that have been received on credit reporting for the last five years please provide the following information:

- a) How many of these complaints resulted in a determination that there had been a breach of the Privacy Act?
- b) How many of these complaints resulted in a determination that there was no breach of the Privacy Act?

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

In the last five years there have been no determinations in relation to credit reporting complaints.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 34

Senator Ludwig asked the following question at the hearing on 16 February 2004:

In how many complaints regarding credit reporting has the OFPC ceased investigation pursuant to:

- a) s41(1)(a) of the Privacy Act?
- b) How many complaints were mediated or conciliated?
- c) How many complaints were settled by the parties?

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

Table 5 below sets out the grounds on which credit reporting complaints have been closed since 1 July 2001. Where matters have been successfully conciliated, the complaint is closed on the grounds that the respondent has adequately dealt with the complaint. The table shows that 37.08% of credit reporting complaints were closed on this basis. The Office does not have separate figures on complaints that have been settled by the parties. The Office produced a new complaints management system in July 2001 in part to improve its ability to record and analyse complaint handling performance. The previous system does not provide detailed statistical reports. Table 6 sets out the issues that gave rise to complaints that were conciliated.

Table 5 Outcomes for Credit Report Complaints Closed Since 1 July 2001		
Grounds on which complaints are closed	No. of complaints	% of Total
Lost Contact	4	0.79%
s.41(1)(a) - No Breach/not under jurisdiction ¹	180	35.50%
s.41(1)(b) / s.40(1A) Not Complained to Respondent	59	11.64%
s.41(1)(c) Aware of Alleged Breach for 12+ Months	12	2.37%
s.41(1)(d) Frivolous, Vexatious, Misconceived, Lacks Substance	1	0.20%
s.41(1)(e) Currently investigated under other C'th or State Act	2	0.39%
s.41(2)(a) Respondent has Adequately Dealt with Complaint	188	37.08%
s.41(2)(b) Respondent has not had Opportunity to Deal with Complaint	44	8.68%
Withdrawn by the Complainant (not resolved by the OFPC)	17	3.35%
Total	507	100.00%

¹ 167 of these complaints were closed on the grounds 'no breach', in the remaining cases the Office did not have jurisdiction.

Table 6 Credit Reporting Complaints Since 1 July 2001 With A Conciliated Outcome

Issue	No. of Complaints	% of Total
credit provider - accuracy of credit report 18E(8)(b)	40	21.28%
credit provider - disclosure s.18N(1)	10	5.32%
credit provider – failed inform CRA s.18F(3)	8	4.26%
credit provider – failed to give notice s.18E(8)(c)	9	4.79%
credit provider – failed to notify C s.18M	1	0.53%
credit provider - not permitted content 18E(8)(a)	2	1.06%
credit provider - used credit report s.18L(4)	1	0.53%
credit rep agency – access to C s.18H	7	3.72%
credit rep agency - accuracy credit report s.18J	21	11.17%
credit rep agency - improper disclosure s.18K(1)	1	0.53%
credit rep agency - not permitted s.18E(1)	7	3.72%
Credit Reporting Code of Conduct Issues	1	0.53%
credit reporting offence s.18R, S or T	7	3.72%
disputed clear out – generally credit provider	4	2.13%
disputed default – generally credit provider	69	36.70%
Total complaints conciliated	188	100.00%

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 35

Senator Ludwig asked the following question at the hearing on 16 February 2004:

- a) How many enquiries does the Privacy Commissioner receive in relation to credit reporting?
- b) How many of these enquiries have led to complaints
- c) Has the OFPC ever done any survey or other analysis to determine what happens to enquiries that do not lead to complaints? If yes please provide the details.

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

- a) In 2002-2003 the Office received 1,708 enquires in relation to credit reporting. This was 8% of the total 21,290 enquires made to the Office.
- b) We do not know how many of these enquiries have led to complaints as generally these enquiries are made anonymously.
- c) No, the OFPC has not done any survey or other analysis to determine what happens to enquiries that do not lead to complaints.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 36

Senator Ludwig asked the following question at the hearing on 16 February 2004:

How often, since the commencement of the Privacy legislation, has the Privacy Commissioner awarded compensation for an inaccurate report? (please breakdown details of complaint and breach and the amount of compensation awarded)

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

As noted in response to question 34 above, since 1 July 2001 the Office has closed 188 credit reporting complaints where there was an interference with privacy and the respondent has adequately dealt with the complaint. In 18 cases the resolution of the complaint involved compensation at a level agreed between the parties (the Privacy Commissioner's role unless making a determination is to conciliate settlement of complaints). A brief description of these complaints is set out in table 7 below. All the cases that involved compensation resulted from breaches by credit providers. 12 of these cases involved an inappropriate or inaccurate listing with a credit reporting agency.

The Office produced a new complaints management system in July 2001 in part to improve its ability to record and analyse complaint handling performance. The previous system does not provide detailed statistical reports.

Table 7 Closed Credit Reporting Complaints Involving Compensation since 1 July 2004

Complaint Summary	Closed date	Compensation amount
Complaint involved disclosure of bank statements to a third party without authority	24/05/2002	8000
Complaint involved a listing of a default when there was no formal loan agreement and disclosure of bank statements to a third party without authority	16/11/2001	3000
The respondent improperly accessed a consumer credit file to do a check related to employment.	17/06/2003	1000
The respondent improperly listed a loan enquiry on a consumer credit information file when it was clearly a commercial matter	17/06/2003	1000
The respondent listed more than one default in relation to the same debt	9/07/2003	19000
The respondent did not update a default on a credit file to note that it had been paid.	29/08/2003	40
Unauthorised access to a credit report by an employee (information used to contact complainant)	15/05/2003	7500
The respondent improperly disclosed the balance of a home loan account to a third party firm of solicitors.	6/01/2004	2500
The respondent repeatedly sent credit worthiness information to an old address despite the details being updated several times	24/10/2001	1000
The complainant was improperly listed as a "clearout" - was never out of contact with the credit provider	12/06/2002	5000
The respondent listed a payment default on a consumer credit file before the account was 60 days overdue and took over a year to update the listing with the credit reporting agency once the debt was paid.	28/06/2002	3250
Respondent had inaccurately listed an account as overdue because of systemic computer error	12/07/2002	700
Credit provider twice listed a default for the wrong individual	14/10/2002	5000
Respondent listed a default for a loan that was disputed and also listed, without cause, that the complainants were "clearouts"	28/11/2002	4570
Credit provider disclosed information to an ex-partner about the complainant's credit worthiness.	25/02/2003	750
The respondent improperly accessed and listed a credit enquiry on a consumer credit file having obtained consent under false pretences.	30/04/2003	1000
Disputed default	2/08/2002	1000
Credit provider listed an incorrect amount with credit reporting agency	20/05/2003	1096

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
OFFICE OF THE FEDERAL PRIVACY COMMISSIONER

Question No. 37

Senator Ludwig asked the following question at the hearing on 16 February 2004:

When did the OFPC realise that there was an issue with long complaint resolution timeframes and rising levels of complaints.

- a) Were these concerns raised with the current or former Attorney General or their respective Offices? If yes please provide information on when the concerns were raised and who they were raised with.

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

In anticipation of the new private sector privacy provisions of the Privacy Act commencing on 21 December 2001, the Office ensured that it was ready and prepared by developing a new Complaints Management System which collected complaints management data from 1 July 2001. Among other things, this allowed the Office to monitor and analyse its investigations workload more closely than previously, including some pre-commencement baseline data. The Office has used the new system to monitor and analyse its investigations workload closely ever since. On this basis, it became apparent by February 2002 that the number of complaints being lodged with the Office on a monthly basis was growing significantly but it was not yet possible to tell whether the growth would turn into a permanent trend. The Office did identify a need for additional funds for other activity early in the year, but only began to seek funds for complaints handling later, when it became clear that the growth trend was persisting.

Following discussions in March 2002 with officers of the Attorney-General's Department and subsequently with the then Attorney-General the OFPC undertook to keep both the Department and the Attorney-General regularly advised on the impact the private sector provision were having on the OFPC. In line with these arrangements the Commissioner wrote formally to the then Attorney-General on 24 July 2002 and 18 February 2003. Consistent with this practice the Commissioner also briefed the incoming Attorney-General in November 2003. As well, the OFPC provided regular updates to officers of the Attorney-General's Department at the regular monthly meetings held between the two organisations.