



AUSTRALIAN CAPITAL TERRITORY
CIVIL & ADMINISTRATIVE TRIBUNAL



**Annual
Review**
2019
-20

Contents

About us.....	4
Independence.....	7
Tribunal leadership and effective management.....	11
Fair treatment.....	13
Accessibility.....	14
Professionalism and integrity.....	17
Accountability.....	19
Efficiency.....	21
Client needs and satisfaction.....	24
In prospect and acknowledgement.....	25
Statistics and performance information	27
Year at a glance.....	27
Overall workload and outcomes.....	27
Appeals.....	28
Administrative review	29
Civil, retirement villages and unit titles disputes.....	34
Discrimination	36
Guardianship and management of property.....	38
Mental health.....	40
Occupational and professional regulation	42
Residential tenancies disputes.....	44
Utilities – energy and water.....	46

About us

The ACT Civil and Administrative Tribunal (the ACAT or the tribunal) was established under the *ACT Civil and Administrative Tribunal Act 2008* (the ACAT Act). It commenced operation in February 2009. The tribunal is administered by ACT Courts and Tribunal within the Justice and Community Safety Directorate.

The ACAT is located on Level 4, 1 Moore Street, Canberra City. Contact details are provided on the tribunal's website at www.acat.act.gov.au.

The ACAT considers and resolves applications lodged by individuals, businesses, government agencies and occupational regulatory authorities on a wide range of issues. The subject matter of applications extends from the review of multi-million dollar planning and taxation decisions to the disconnection of essential services. Regardless of the subject matter, each case is important to the participants and sometimes to sectors within the ACT community. Applications can be made about:

- the review of a range of administrative decisions made by the ACT Government
- discrimination complaints
- guardianship, financial management and enduring powers of attorney
- mental health treatment and care
- residential tenancies (rental property) disputes
- energy and water hardship and complaints/investigations
- civil disputes valued at \$25,000 and under
- unit titles and retirement villages disputes
- motor accident injuries
- the discipline and regulation of many occupations including construction occupations, security guards, real estate agents, teachers, veterinarians and the health and legal professions.

Different types of cases require different procedural responses to ensure that the objects of the tribunal's legislation and the principles by which the tribunal operates are met. A pro-active case management approach is taken to all cases, with directions being set and followed up by the tribunal to minimise delays in progressing cases to resolution.

At the end of the reporting period there were 62 members of the ACAT. They are supported by a registry of 35 staff, employed by the ACT Government under the Justice and Community Safety Directorate.

COVID-19 RESPONSE

In March 2020, the ACAT implemented its response to the COVID-19 crisis, informed by Australian Government and ACT Department of Health advice aimed at containing the spread of COVID-19. Measures were intended to protect the health and safety of members, staff and tribunal users and, as far as possible, to keep the tribunal operational.

On 23 March 2020, the ACAT decided to hold all hearings and conferences by phone or video-link and to defer the listing of all non-urgent applications until September 2020. Applications continued to be heard for mental health, guardianship, energy and water hardship, residential tenancy termination and possession order applications, urgent cases, applications for stays or injunctions and other cases with the approval of the Case Managing Member or Registrar. The ACAT premises, including the public counter, were closed to the public. Members and staff were rostered into two teams to work from home one week and in the office the next. Business processes were developed to support people working from home and also for the use of WebEx for hearings at the ACAT, whether convened from ACAT premises or other locations.

Appropriate procedures were adopted so that the ACAT could continue to operate its paper-based filing system where files have to be stored at ACAT premises. Parties increasingly provided material by email, and documents had to be printed and filed on site, while hearings were conducted remotely, including from some members' homes. This required a degree of duplication of documents and much additional administrative work.

The responses to the COVID-19 restrictions included increased reliance on WebEx and other audio-visual platforms, as well as teleconferencing. The limitations of, as well as flexibility offered by, the technology became apparent early on. Practices for conducting mediations, conferences and hearings were adapted to use available technology.

Restrictions were gradually eased commencing from mid-June 2020. At each stage, decisions were informed by the status of the virus in the ACT and elsewhere in Australia, and the guidelines and orders issued by the ACT Government. The ACAT also monitored the practices adopted from time to time by comparable tribunals around Australia.

Members and staff have demonstrated considerable agility and resilience during the COVID-19 pandemic to keep the tribunal functioning so that we could assist parties under difficult circumstances.

Although it is unclear when (or whether) the ACAT will return to pre-COVID-19 practices, it is increasingly likely that some recently developed practices (perhaps with modification) will continue into the foreseeable future. In any case, it will be essential that the ACAT has appropriate technology on site to be able to deliver a higher quality, and more reliable, level of service in this changed environment.

COVID-19 affected the efficiency of the tribunal's outcomes for 2019-20. The extent of that impact is evident in the data, outlined in the second half of this review.



ABOUT THIS REVIEW

Each year, the ACAT publishes a review of its activities, achievements and challenges. This report covers the tribunal's 11th full year of operation. Reports on the Tribunal's performance, financial management and strategic indicators for the financial year are set out at Output 3.1 in the annual report of the Directorate for 2019–20. This annual review provides more detailed information about the tribunal's case workload and outcomes in the 2019–20 financial year.

TRIBUNAL EXCELLENCE FRAMEWORK

This annual review has been structured by reference to the Australia and New Zealand Tribunal Excellence Framework published by the Council of Australasian Tribunals (COAT), particularly the eight areas of tribunal excellence: independence, leadership and effective management, fair treatment, accessibility, professionalism and integrity, accountability, efficiency, and client needs and satisfaction.



Independence

"A tribunal's degree of independence will influence public perception about the extent of the impartiality of the decision-making within the tribunal."

– COAT, Australia and New Zealand Tribunal Excellence Framework, June 2017, p11

The ACAT is an independent body established under the ACAT Act which contains provisions establishing the tribunal, giving it jurisdiction and powers, and dealing with appointments and procedures. Other Acts giving jurisdiction to the ACAT (known as authorising laws) confirm the independence of the tribunal.

PRINCIPLES AND OBJECTS

Section 7 of the ACAT Act provides that when it carries out its functions, the tribunal must ensure that its procedures are as simple, quick, inexpensive and informal as is consistent with achieving justice. It must observe natural justice and procedural fairness.

The objects of the ACAT Act are set out in section 6. They are to:

- provide for a wide range of matters arising under legislation to be resolved by the tribunal
- ensure that access to the tribunal is simple and inexpensive
- ensure that applications are resolved as quickly as is consistent with achieving justice
- ensure that tribunal decisions are fair
- enhance the quality of decision-making under legislation
- encourage, and bring about, compliance in decision-making under legislation
- encourage tribunal members to act in a way that promotes the collegiate nature of the tribunal
- identify and bring to the Attorney-General's attention systemic problems in relation to the operation of authorising laws.

The ACAT maintains its independence from Government, while working with Government to suggest legislative amendments and to bring to the Attorney-General's attention systemic problems in its authorising laws.

TRIBUNAL MEMBERS

Members are appointed by the Executive. Transparency of the appointment process and independence of members is facilitated by a clear statutory framework.

The President is responsible for the orderly and prompt discharge of all ACAT business and ensuring that its decisions are made according to law. The President allocates members to deal with applications, reviews all internal appeals and referrals to the Supreme Court, and has a number of other statutory functions relating to the operation of the ACAT.

In 2019–2020, Graeme Neate AM continued in his full-time appointment as ACAT President. Presidential Members Geoffrey McCarthy and Mary-Therese Daniel and Senior Member Heidi Robinson continued in their full-time appointments. Kristy Katavic commenced a new five-year appointment as a full-time Senior Member. Presidential Member Elizabeth Symons' part-time appointment ended on 2 April 2020. A Presidential Member recruitment process commenced in the reporting period.

In addition, the tribunal had 49 sessional non-presidential members at the beginning of the reporting period. The terms of most members expired early in 2020. A recruitment process was conducted in the period, resulting in:

- The reappointment of 37 sessional Senior Members and sessional Ordinary Members whose terms expired early in 2020. These reappointments were for terms of three or five years.
- The appointment of three members as sessional Senior Members for terms of five years. Each had formerly held an ACAT appointment as a sessional Ordinary Member.
- The appointment of five additional sessional Senior Members and seven additional sessional Ordinary Members for terms of five years.

Three sessional members did not seek reappointment and one sessional member, Thomas Faunce, passed away early in the reporting period. At the end of the reporting period there were 57 sessional non-presidential members. The names of all members the reporting period are set out below.

The requirements for appointment, and terms of appointment for all members, are detailed in Part 9 of the ACAT Act. Members must give an undertaking to the Territory before exercising any function as a member. Presidential members give an undertaking before a judge of the Supreme Court and non-presidential members give an undertaking before a presidential member. The terms of the undertaking are set out in the ACAT Act as follows:

I, [name] undertake to the Territory that I will well and truly serve in the office of [presidential member/ non-presidential member/assessor] and that I will do right to all people, according to law, without fear or favour, affection or ill-will.

The appointment of a non-presidential member may be ended by the Executive as set out in section 99 of the ACAT Act for misbehaviour, physical or mental incapacity, or failure to disclose a material interest. Presidential members may only be removed from office, like judicial officers, in accordance with the provisions of the *Judicial Commission Act 1994*.

Remuneration of members is determined by the ACT Remuneration Tribunal. The relevant determinations for the reporting period are numbers:

- 9 of 2019, effective from 1 November 2019
- 12 of 2018, effective from 1 November 2018.

Presidential members cannot engage in remunerative employment or accept an appointment to another statutory position without the Attorney-General's written consent.

During the reporting period, Presidential Member McCarthy and sessional Senior Member Theresa Warwick were appointed to the ACT Magistrates Court for specified terms as part time Special Magistrates while continuing as members of the tribunal.

Members are required by section 50 of the ACAT Act to disclose any material interest they have in a matter in an application. They must not take part in the tribunal dealing with the application unless each party consents. The President can direct a member not to deal with an application, even where the parties give consent. The President provides the Attorney-General with a written report about each disclosure after the end of each financial year.

Many sessional members have specialised knowledge or experience about the areas in which the tribunal works. About 30 sessional members are regularly involved in tribunal work. The core group includes lawyers, psychiatrists, mediators, people with expertise in planning and related matters and a number of people who sit on hearings as members of the community. Community members are allocated to mental health, guardianship, utilities and occupational discipline matters. Sessional members provide an invaluable service to the ACT community.

ACAT members, along with their appointment and appointment periods, during 2019–2020 were:

Presidential Members		
NEATE , Graeme	President	2 January 2017 to 1 January 2024
DANIEL , Mary-Therese	Presidential Member	1 January 2016 to 31 December 2022
MCCARTHY , Geoffrey	Presidential Member	1 January 2016 to 31 December 2022
SYMONS , Elizabeth	Presidential Member (Part-time)	1 April 2012 to 2 April 2020
SPENDER , Peta	Presidential Member (Acting)	3 February 2016 to 2 February 2023
ORR , Robert PSM QC	Presidential Member (Acting)	1 January 2016 to 31 December 2022
Non-Presidential Members		
ROBINSON , Heidi	Senior Member (Full-time)	1 January 2016 to 31 December 2020
KATAVIC , Kristy	Senior Member (Full-time)	1 February 2020 to 31 January 2025

Sessional Senior Members

ANFORTH Allan
BAILEY Robyn (from 1 February 2020)
BEACROFT Laura
BIGINELL Nigel
BOYLE Alysoun
BRENNAN Mary
BRODRICK Frank (to 31 January 2020)
BYRNE Donald
CORBY Wilhelmena
CREYKE Robin
DAVEY Adrian
DONOHUE Louise
DREW Leslie
FAUNCE Thomas (deceased 7 July 2019)
FERGUSON Elspeth
FOLEY Anthony James
HERRICK Stephen
HUGHSON Bernard (to 31 January 2020)
HYMAN Mark (from 1 February 2020)
KERSLAKE David (from 1 February 2020)
LANCKEN Stephen (from 1 February 2020)
LENNARD Jann
LOVELL Denis
LUBBE Katherine
LUNNEY Graeme
MATHESON Marie
MEAGHER Bryan
MULLIGAN Dominic (from 1 February 2020)
NORRIE Peter
ORR Robert
ORLOV Michael (from 1 February 2020)
PEGNUM Roger
SINCLAIR Michael

SPENDER Peta

SUTHERLAND Peter

TRICKETT Graeme

TURNER Graeme (from 1 February 2020)

WARWICK Theresa (from 1 February 2020)

WILLIAMS Leanne

Sessional Ordinary Members

BENNETT Elizabeth (from 1 February 2020)

DAVIES Robyn

DELAHUNT Anne-Marie

GREAGG Jane

HATAMI Parastou (from 1 February 2020)

HAWKINS Walter (from 1 February 2020)

KELLER Sheridan (from 1 February 2020)

LANCKEN Stephen (to 31 January 2020)

LUCAS Dianne

MAYES Leasa

MCGLYNN Lisa (from 1 February 2020)

MORRIS Athol

MULLIGAN Dominic (to 31 January 2020)

NEWMARCH Eileen

PEARCY William

SELBY Hugh (from 1 February 2020)

STEEPER Elizabeth

TRICKETT Elizabeth

VASSAROTTI Rebecca

WARWICK Theresa (to 31 January 2020)

WEDGWOOD Robert

WILLIAMS Athol

WILSON Mirjana (from 1 February 2020)

WRIGHT Graham

Retirement of Presidential Member Elizabeth Symons

The appointment of Presidential Member Elizabeth Symons ended on 2 April 2020, after eight years. During her time with the ACAT, Presidential Member Symons presided over matters covering the full range of the tribunal's jurisdictions. We acknowledge her considerable contribution to the life and work of the tribunal.

Tribunal leadership and effective management

"Strong leadership within a tribunal requires the creation of a highly professional management group which is able to focus on innovation and continuous improvement as well as anticipate changes in society which may influence demands within the tribunal."

– COAT, Australia and New Zealand Tribunal Excellence Framework, June 2017, p14

ACAT LEADERSHIP TEAM

The ACAT Leadership Team comprises the President, Presidential Members, full-time Senior Members, Principal Registrar, Registrar and Deputy Registrars, supported by the Senior Manager, Operations Manager and ACAT Team Leaders. The following groups meet regularly to progress work, collaborate and share information around the ACAT's administration, with the aim of improving the quality and responsiveness of the ACAT's services:

- Presidential Members Group
- ACAT Executive Group
- ACAT Team Leaders Group.

The ACAT Registrar and Senior Manager also participate as members of the ACT Courts and Tribunal Executive Group.

STRATEGIC STATEMENT 2017–2020 AND CORPORATE PLAN

The ACAT Strategic Statement sets out the purpose of the tribunal, its values and behaviours, and priorities and goals. Work has commenced to update the Strategic Statement for the coming three years. The ACT Courts and Tribunal Corporate Plan 2017–20 sets out the ACAT's strategic statement and can be found on the [ACAT website](#). The plan is under review for the period 2021 and future years.

The stated purpose of the ACAT is to promote the rule of law for civil and administrative justice in the ACT by:

- providing accessible systems that encourage people to resolve disputes themselves
- making authoritative and timely decisions to resolve disputes when needed
- adopting fair procedures and processes which enable people to be heard
- applying the law equally and treating people equally and with respect, regardless of their circumstances
- being responsive to the needs of each case
- working in a way that attempts to heal relationships rather than harm.

The ACAT priorities for 2019–20 were:

- monitor and effectively respond to trends in matters brought to the ACAT and to new and changing laws
- strengthen engagement with key stakeholders
- continue to work to implement the Integrated Case Management System
- strengthen data collection and the use of data in planning processes
- ensure ACAT's future premises are suited to its purpose and provide an appropriate balance of informality and professionalism.

The activities undertaken to meet these priorities are set out in this annual review.

Fair treatment

"A fair hearing involves the opportunity for each party to put their case – the right to be heard – and have the case determined impartially and according to law. It involves identifying the difficulties experienced by any party, whether due to lack of representation, unfamiliarity with the law, language, culture, disability or any other matter, and finding ways to assist parties through the tribunal process."

– COAT, Australia and New Zealand Tribunal Excellence Framework, June 2017, p16

The ACAT provides opportunities for each party to be heard and to have their case determined impartially and according to law. The procedures used by the tribunal vary, being adapted to the different types of matters before the tribunal and, to some extent, the circumstances of individual cases. Applications in the tribunal's civil, residential tenancies, unit titles, discrimination, administrative review and occupational regulation work areas are often resolved using types of alternative dispute resolution (ADR) such as mediation or conferencing and, only where necessary, hearings.

Energy and water complaints are mostly resolved using investigative, conciliation and referral techniques. A very small number of matters proceed to hearing.

Applications in the energy and water hardship, mental health and guardianship work areas are usually resolved in hearings because of the nature of those cases and the need for authoritative decisions to be made quickly.

The majority of parties at the tribunal are self-represented. The ACAT developed and distributed to members a document titled "Guidance for tribunal members about how to respond to the needs of self-represented parties". This is a practical guide that focusses on ensuring fair treatment for self-represented litigants developed by the ACAT President.

Accessibility

"Access to justice is a fundamental human right and a core principle of the rule of law. Tribunals as well as courts have an obligation to provide the community they serve with access to a fair hearing."

– COAT, Australia and New Zealand Tribunal Excellence Framework, June 2017, p17

WEBSITE AND COMMUNICATION

Access to the ACAT is enhanced by its website which contains information about the tribunal's operations, the types of applications that can be made to the tribunal, forms to be completed, applicable fees, hearing dates and times, and tribunal decisions.

In June 2019, the ACAT launched its new website with re-designed information architecture and refreshed and expanded content with the aim of assisting tribunal users to better access ACAT information and services.

During 2019–20 three new videos were produced and published on the ACAT website aimed at providing information to tribunal users on particular aspects of the tribunal's work. This brings the total number of videos to four, and they cover the following topics:

- Welcome to ACAT
- Hearings at ACAT
- Conferences at ACAT
- Motor Accident Injuries and ACAT.

ACAT website content is continually updated to reflect any procedural changes, including when ACAT's jurisdiction changes as a result of new or amended laws. New template documents, designed to assist parties to prepare and organise their case, were added to the website, including a template index and cover page.

REVIEW OF THE ACAT PROCEDURAL DIRECTIONS AND RULES

The ACAT review of procedural directions commenced in January 2019 and resulted in the development of ACAT Rules. In January 2020, the new ACAT Rules commenced. Where previously there had been 29 rules and 50 procedural directions, a new approach was developed resulting in 141 rules and three practice notes to guide ACAT parties in their dealings with the ACAT. An additional practice note was made in March 2020.

There are general rules, which apply to all tribunal cases and cover matters such as: the use of forms, starting an application, representation, serving documents, amending documents, litigation guardians, use of alternative dispute resolution, subpoenas, removals to the Supreme Court, adjournments and taking part in proceedings other than in person.

There are also specific rules which are tailored to various tribunal jurisdictions, such as civil disputes, fence disputes, guardianship, mental health, review of administrative decisions, occupational discipline and discrimination.

The four practice notes cover:

- Communicating with the tribunal
- Adjournments
- Taking part by telephone
- Civil dispute applications made by a utility.

ACAT ACCOMMODATION

Consultations with government continued during the reporting period in relation to the ACAT's future accommodation needs. The ACT Government decided to fitout new premises at Allara House in Canberra City for a number of ACT Government agencies, including the ACAT. Design work commenced in June 2020 and fitout work is expected to be completed in 2021. Project Control Group (PCG) Pty Ltd was engaged to update the ACAT's functional design brief, last updated in December 2018, to inform decisions about the ACAT's accommodation design needs to enhance the ACAT's accessibility and service to the ACT community.

WARM REFERRALS TO LEGAL ASSISTANCE

To better assist the high number of self-represented parties before the ACAT to obtain legal advice, 'warm referral' processes continued to operate during the reporting period. Under this scheme, ACAT Registry staff are able to obtain the permission of a party to provide their contact and application details to the free legal services in the ACT, who contact the party to discuss their case. During the reporting period, 20 matters were referred by the ACAT under this program. The matters involved administrative review, civil claims and residential tenancies disputes. Warm referrals were made to ACT Legal Aid, Canberra Community Law, the Animal Defenders Office and the Debt Enforcement Clinic.

MENTAL HEALTH AND GUARDIANSHIP HEARINGS AT HOSPITALS

The tribunal continued holding hearings of mental health matters each Monday and Thursday at The Canberra Hospital Adult Mental Health Unit and at, or by video-link to, Calvary Hospital Older Persons Mental Health Unit. The ACT Health Tribunal Liaison Officers facilitate these hearings and their work is acknowledged. Other hearings are at the tribunal premises.

The tribunal continued to hold guardianship hearings at The Canberra Hospital, Calvary Hospital and the University of Canberra Hospital for inpatients. The hearings occur each Friday morning, week about, at each hospital. The tribunal acknowledges and thanks the social work teams at each hospital who provide significant structural support to enable the hearings to occur. Ninety guardianship hearings were held at hospitals in 2019-20. Due to COVID-19 restrictions, the period from March to June 2020, 30 of these hearings proceeded by video-link between the ACAT premises and the hospitals.

The hospital guardianship hearings have produced many important benefits. As at 30 June 2020, approximately 86% of the proposed protected persons had attended their hearings. The attendance of the subject person greatly improves the value and effectiveness of the hearing. The period between lodgement of a completed application and hearing is approximately 9 days, which often enables earlier discharge of the subject person (which benefits their health and well-being) and, consequentially, results in very significant savings to each hospital's costs.

ACCESS TO INTERPRETERS FOR TRIBUNAL USERS

From the beginning of 2018–19, the ACAT has funded the provision of interpreters to parties with limited or no English to promote access to justice and equality for parties before the tribunal.

Procedures and website information for clients have been developed and implemented, including ACAT interpreter cards in 13 languages, posters in English and seven other languages, a language identification chart depicting 41 languages, and staff information and training. These resources are available on the [ACAT website](#). The website also features Google translate with the ability to convert webpages into 103 languages.

Interpreter protocols were issued by the ACT Supreme Court, ACT Magistrates Court and the ACAT in February 2020. These guidelines provide guidance to judicial officers, tribunal members, registrars, court and tribunal staff, interpreters, agencies and legal practitioners about the use of interpreters in the context of the ACT Courts and Tribunal, including for registry enquiries and in hearings. The interpreter protocols can be accessed at: www.acat.act.gov.au.

Professionalism and integrity

"... the Tribunal Framework recognises the importance of a competency framework for members by ensuring professionalism of those members appointed for a fixed term without tenure.

Competency standards and associated performance benchmarks are one means of ensuring that members are aware of their obligations."

– COAT, Australia and New Zealand Tribunal Excellence Framework, June 2017, p20

MEMBERS' PROFESSIONAL DEVELOPMENT

As noted earlier, members of the ACAT have a wide range of qualifications, specialised knowledge and experience about areas in which the tribunal works. Actions were taken during the reporting period to enhance members' competence to perform statutory functions and, by participating in national and other bodies, representatives of the tribunal sought to assist other tribunals.

An all member meeting was held on 2 February 2020, to coincide with the ACAT's eleventh anniversary and the commencement of the terms of new and reappointed members. Topics discussed included overviews of the different work areas covered by the ACAT, security at the ACAT, dealing with self-represented litigants, ADR at the ACAT, the new ACAT Rules and practice notes, the ACAT website, member conduct and decision-making.

The COAT *Practice Manual for Tribunals* (Fourth Edition) is provided as a resource for new members. The fifth edition of this resource is expected to be published in July 2020.

Members participate in training about major changes in the law and in discussion groups about the tribunal's operations in particular areas such as residential tenancies, unit titles and utilities work. Members are regularly advised of new decisions and developments in relevant areas of the law.

During 2019–20, some ACAT members participated in the following conferences as attendees or speakers:

- COAT NSW Conference 2019
- Australian Institute of Administrative Law (AIAL) National Administrative Law Conference 2019
- Australian Guardianship and Administration Council Conference 2019.

A number of conferences and events were postponed during the period due to COVID-19, including the COAT National Conference 2020.

STAFF PROFESSIONAL DEVELOPMENT

In August 2019, all ACAT staff participated in Managing Vicarious Trauma training, conducted by the Blue Knot Foundation. The training looked at aspects of vicarious trauma, including compassion fatigue and burnout, managing personal responses to these and issues to be aware of in providing services to clients who have experienced trauma. Concepts such as post-traumatic growth and resilience were also covered, as were self-care techniques for staff in the management of their own exposure to vicarious trauma.

In December 2019, all ACAT staff also participated in *Understanding Hearing Loss* training conducted by the ACT Deafness Resources Centre and a number of staff participated in Easy English training.

During 2019–20, key ACAT staff also participated in pilot Domestic Violence for frontline workers training.

Training was provided internally, including in relation to the new rules and practice notes, legislation changes that impacted on the tribunal's work and the tribunal's first online form.

COMMUNICATION WITH MEMBERS

During the year the tribunal continued to communicate with members through a regular members newsletter. The newsletter is aimed at enhancing the professionalism and integrity of members by outlining legislative changes, significant decisions, changes to procedures and other ACAT developments.

MATERIAL INTERESTS

The President reported to the Attorney-General in writing about disclosures of material interests made by tribunal members under section 50 of the ACAT Act, as required by section 51 of the Act.

PARTICIPATION IN NATIONAL WORK

President Neate serves on the executive committee of COAT and Presidential Member McCarthy serves on the executive committee of the AIAL, along with Senior Members Peter Sutherland, Robert Orr QC and Robyn Creyke AO.

The President or his nominee presidential member participates in bi-annual meetings of the Australian Guardianship and Administration Council and in meetings of heads of tribunals relating to health practitioners, mental health matters and guardianship matters. The President participated in meetings of the Australian and New Zealand Energy and Water Ombudsman Network (ANZEWON) during 2019–20.

The ACAT is fortunate to be part of the collegiate network of Australasian tribunals and has had the benefit of the support of civil and administrative tribunals in the States and the Northern Territory. The ACAT Registrar and Presidential Member Daniel participate in the National ADR Network, and the ACAT Registrar and Senior Manager participate in the Australasian Tribunal Administrators Group. Both groups are aimed at information sharing and problem solving. They meet to talk about innovative work being undertaken across all jurisdictions.

PARTICIPATION IN ACT WORK

President Neate participates in monthly meetings of the ACT Joint Rules Advisory Committee and is a member of the steering committee for the review of Russell Fox Library. The ACAT Registrar or a Deputy Legal Registrar attends the monthly meetings of the ACT Law Society's Civil Litigation Committee meeting. Presidential Member Daniel participates as a member of the committee of the Resolution Institute (ACT Chapter).

Accountability

"An effective complaints mechanism is an important means of ensuring that the public's expectation of members and staff are met... Regular stakeholder and community engagement and reporting tribunal performance helps ensure that the tribunal is accountable to the public it serves".

– COAT, Australia and New Zealand Tribunal Excellence Framework, June 2017, p22

CUSTOMER SERVICE CHARTER AND COMPLAINTS MECHANISMS

Throughout the reporting period the ACT Courts and Tribunal promoted the availability of its service charters and complaints and feedback policies, including those of the ACAT. These documents are available on the [ACAT website](#).

In 2017, the ACT Judicial Council was established to consider complaints about the conduct of judicial officers. Most tribunal members are outside the scope of the Council. Complaints about a tribunal member, or a Registrar carrying out judicial functions, are referred to the President for investigation and action. Complaints relating to the President and presidential members of the ACAT are referred to the ACT Attorney-General, who appoints a suitably qualified person to consider the complaint under the *Judicial Commission (Complaints – ACAT Presidential Members) Approved Protocol 2017 (No 1)*. During 2019–20, no complaints were received under the Protocol.

During 2019–20, 33 complaints were received about ACAT services or members, which represents less than 1% of ACAT applications.

RESERVED DECISIONS AND WRITTEN DECISIONS

ACAT members work to a benchmark timeframe for the delivery of tribunal decisions of three months from the date a decision is reserved. A protocol guides inquiries from parties about any delays in the delivery of a decision. In 2019–20, 108 written decisions were published and eight enquiries were received under the reserved decision protocol.

STUDENTS AND INTERNS

The tribunal continued its engagement with law students at the Australian National University and University of Canberra by offering observation opportunities and internships of between 10 and 20 days duration. Sixteen interns attended the ACAT during 2019-20, although the program was suspended as a result of restrictions in the tribunal in response to COVID-19. Their presence encourages a culture of learning within the tribunal and expands the knowledge base of young lawyers about the practical aspects of the administration of the law and the work of the tribunal. Their contribution is gratefully acknowledged.

SYSTEMIC ISSUES

The Attorney-General and his directorate were advised of a small number of amendments that could usefully be made to several authorising laws. Comments were made on many proposed legislative reforms and extensions to the tribunal's areas of work, including the following:

- *ACT Civil and Administrative Tribunal Act 2008*
- *Births Deaths and Marriages Registration Act 1997*
- *Construction Occupations (Licensing) Act 2004*
- *Human Rights Commission Act 2005*
- *Liquor Act 2010*
- *Mental Health Act 2015*
- *Motor Accident Injuries Act 2019*
- *Residential Tenancies Act 1998*
- *Unit Titles (Management) Act 2011*
- *Victims of Crime Act 1994*
- *Work Health and Safety Act 2011.*

Efficiency

"Tribunals should provide an efficient dispute resolution service in the sense that the tribunal is affordable and resolves disputes in an appropriate and timely way. Many tribunals have within their enabling legislation the object of facilitating the just, quick and cheap resolution of disputes. It is the speed of the tribunal that is the heart of this measure."

– COAT, Australia and New Zealand Tribunal Excellence Framework, June 2017, p24

STATISTICS AND PERFORMANCE INFORMATION

Efficiency can be evaluated in different ways. The Statistics and Performance Information part of this annual review contains detailed information about the numbers of applications lodged and matters completed during the reporting period. It also describes the different types of work undertaken by the tribunal, and the factors that affect the ways and speed with which disputes are resolved. Work was undertaken throughout the reporting period to develop more detailed reports drawn from the Integrated Courts Management System (ICMS).

ALTERNATIVE DISPUTE RESOLUTION (ADR)

In keeping with the tribunal's objects, mediation (both purely facilitative and blended) and preliminary conferencing (which can employ both conciliation and neutral evaluation techniques) are available to the parties in most matters. Even for matters that are not resolved, these restorative methods assist parties to narrow the issues between them and to better understand each other's perspectives.

Unlike a hearing, which can attract hearing fees, ADR is provided at no cost to the parties. ADR is usually undertaken at an early stage, before parties have commenced preparation for a hearing. However it can occur at any stage of a matter where this is requested and/or is considered by the tribunal to be an appropriate allocation of resources, including close to a scheduled hearing date.

A number of tribunal members and staff are accredited mediators. Thirteen members and five staff have undertaken ADR training. Matters are referred to members for mediation rather than to external mediators. Because members are familiar with the subject matter, and tribunal processes, they are better able to provide feedback in a private session when a blended process is used. Members allocated to a preliminary conference can themselves proceed to make directions and make orders to finalise applications. This allows the tribunal to deal with matters in a more effective and timely way and avoids delays connected with referrals to external agencies or other members.

It is difficult to report upon the success of ADR in a purely statistical way. A matter may be formally resolved on the day of a mediation or conference, or may be resolved weeks later because of the time taken to draw up consent orders, or a continuation of negotiations commenced at the ADR session. If a matter is not resolved at an ADR session, the issues may be narrowed and the ultimate hearing is quicker and less expensive for the parties. It is currently not possible to obtain data on the more qualitative benefits of ADR. Consistent with approaches taken in other jurisdictions, the ACAT reports matters in administrative review, discrimination and occupational regulation jurisdictions as 'resolved at ADR' where the matter is finalised within 28 days of the ADR event, and there is no final hearing. It records as 'resolved after ADR' those matters which are finalised more than 28 days after the ADR event, but prior to a final hearing, and 'proceeded to hearing' those matters which proceeded to at least the first day of a final hearing.

INTEGRATED COURTS MANAGEMENT SYSTEM (ICMS)

ICMS has been used to manage the ACAT's cases since December 2015. It continued to support all case management for the ACAT except energy and water hardship applications and complaints.

ACAT CIVIL DISPUTES ONLINE FORM

During 2019–20 ongoing work on online services resulted in the launch of the ACAT civil disputes online application form on 2 March 2020. Work undertaken during the period focussed on the development of policies and procedures to facilitate the implementation of the online form. Further forms for other aspects of the tribunal's work are expected to be implemented during 2020–21.

ACAT JURISDICTIONAL CHANGES

Legislative changes implemented over the last year continue to increase and change the ACAT's jurisdiction. New reviewable decisions were created under a range of legislation, and new functions were given to the ACAT under the *Liquor Act 2010* and *Construction Occupations (Licensing) Act 2004*.

Amendments to the ACAT Act, *Retirement Villages Act 2012* and the *Human Rights Commission Act 2005* commenced in 2019–20 to confer on the ACAT jurisdiction to:

- keep copies of conciliation agreements made by the ACT Human Rights Commission in response to a retirement village complaint
- make orders based on conciliation agreements
- receive retirement village complaints referrals from the ACT Human Rights Commission.

Throughout 2019–20 there were a number of changes made to the ACAT's jurisdiction under the *Residential Tenancies Act 1998*, requiring changes to processes and communication with stakeholders. The changes related to:

- tenants leasing premises affected by loose-fill asbestos
- tenants keeping pets or making modifications to premises
- break lease fees
- rent increases.

MOTOR ACCIDENT INJURIES JURISDICTION

In February 2020, the ACAT's jurisdiction expanded to include Motor Accident Injuries (MAI) applications. The *Motor Accident Injuries Act 2019* (MAI Act) gives jurisdiction to the ACAT to review a range of insurers' decisions, and make some determinations, about injury or death resulting from involvement in a motor vehicle accident. ACAT's role includes: reviewing insurers' decisions about eligibility for, and the amount of, treatment and care benefits, quality of life benefits, and income replacement benefits; reviewing an insurer's decision about whether there has been a significant occupational impact on an injured person; and resolving disputes about future treatment payments. The ACAT has sole jurisdiction to determine the amount of death benefits payable to dependants of a person who dies as a result of a motor vehicle accident.

The MAI Act gives the ACAT jurisdiction to review specified decisions of the MAI Commissioner in relation to insurers. The ACAT also has a role in discipline matters involving insurers.

Before the MAI Act commenced, work was completed in identifying and implementing the necessary information technology and procedural changes required to give effect to the tribunal's new jurisdiction. At the end of the reporting period, no applications had been received. It is probable that this was due to the time needed for the required internal review of most insurer decisions and, possibly, the impact of the COVID-19 crisis which may have led to a reduction in road travel by many people.

Client needs and satisfaction

"Public trust and confidence in the administration of justice are essential for the acceptance by users of an individual decision that affect them. Therefore for a tribunal to be effective its users have to be satisfied that the procedures and processes adopted by the tribunal are fair. The tribunal needs to know what its users think about its procedures and processes."

– COAT, Australia and New Zealand Tribunal Excellence Framework, June 2017, p26

REGULAR COMMUNITY STAKEHOLDER ENGAGEMENT

Stakeholder meetings were held with people interested in specific aspects of the work undertaken by the tribunal. In particular, a Residential Tenancies stakeholders forum was hosted by the ACAT and was attended by a broad spectrum of tribunal stakeholders. At the forum, ACAT provided:

- information about tribunal practice and procedure, including adjournment requests, telephone attendance and cases involving embassies
- an overview of new tenancy laws
- a virtual tour of the ACAT website.

Education programs on the work of the ACAT were delivered by Presidential Member Daniel to the ANU/EDO ACT Environmental Law Clinical Program, and a presentation was made to the ACT Law Society Continuing Professional Development (CPD) program by President Neate on self-represented parties. Presidential Member McCarthy presented to medical staff at the Canberra Hospital about the presentation of medical reports for guardianship hearings.

FEEDBACK ON ACAT PERFORMANCE

Tribunal user feedback is sought and received on a range of activities. During 2018–19, planning commenced on a client satisfaction survey, including the development of a survey instrument. The survey was delayed until 2020–21 due to a number of competing work priorities and resource constraints occurring during 2019–20. Feedback on the new ACAT website is actively sought, including through a short feedback survey available through the website. Feedback is used to inform improvements and upgrades as necessary. As noted above, the ACT Courts and Tribunal promotes the availability of its service charters and complaints and feedback policies, including those of the ACAT, through the [ACAT website](#).

In prospect and acknowledgement

LOOKING AHEAD

ACAT priorities for 2020–21 year ahead include:

Member engagement, support and development: A project will commence during 2020–21 to develop a competency framework for members and identify member training needs to provide a framework for regular performance review and feedback to members on performance.

Review of dispute resolution at the ACAT: An evaluation of current ADR processes will be undertaken during 2020–21, including an exploration of alternative ADR processes and an investigation of the issues around the implementation of Online Dispute Resolution (ODR) at the ACAT.

Legislative amendments: This is an area of continual change and adjustment for the ACAT. Work to adapt procedures and ICT to facilitate these changes is ongoing.

Proposed client survey: During 2019–20, planning commenced for a satisfaction survey with ACAT users to obtain feedback about tribunal services, facilities and processes. The survey will be conducted during 2020–21 and results will be used to inform service delivery at the ACAT.

ACAT accommodation: Extensive work has commenced on the design and fitout of new accommodation for the ACAT to meet current and future business needs, and will continue into 2020–21.

New ways of working due to COVID-19: The tribunal has faced many challenges during the pandemic and has made changes to the way it operates in response to a range of externally imposed constraints. The tribunal will assess whether some of the changes made to its operations should continue (perhaps with some modifications) and become a permanent feature of tribunal practice.

THANK YOU

The work of the tribunal is diverse and demanding in usual circumstances. As a result of the COVID-19 pandemic, the work has drawn more than ever on the resources and cooperation of many people inside and outside the organisation.

The full-time, part-time and sessional members of the tribunal work hard and skilfully to perform their functions efficiently and well. They are assisted greatly by the staff of the tribunal who provide essential services to members of the public and parties, as well as to the members. Each person has a vital role in the overall functioning of the tribunal and our capacity to serve the community. I thank them all for their service.

I also thank the Principal Registrar, and staff of the Courts and the Justice and Community Safety Directorate for their ongoing support.

The tribunal is assisted by members of the legal profession and others, including stakeholder bodies, who provide advice and support to parties appearing before the tribunal. Their support to parties and feedback to the tribunal helps us perform our statutory functions. Their contributions are gratefully acknowledged.

It has been a privilege to work with tribunal members and staff to help parties resolve their disputes by agreement or to make decisions about these disputes even in the unusual circumstances of the second half of the period covered by this review .

Graeme Neate AM

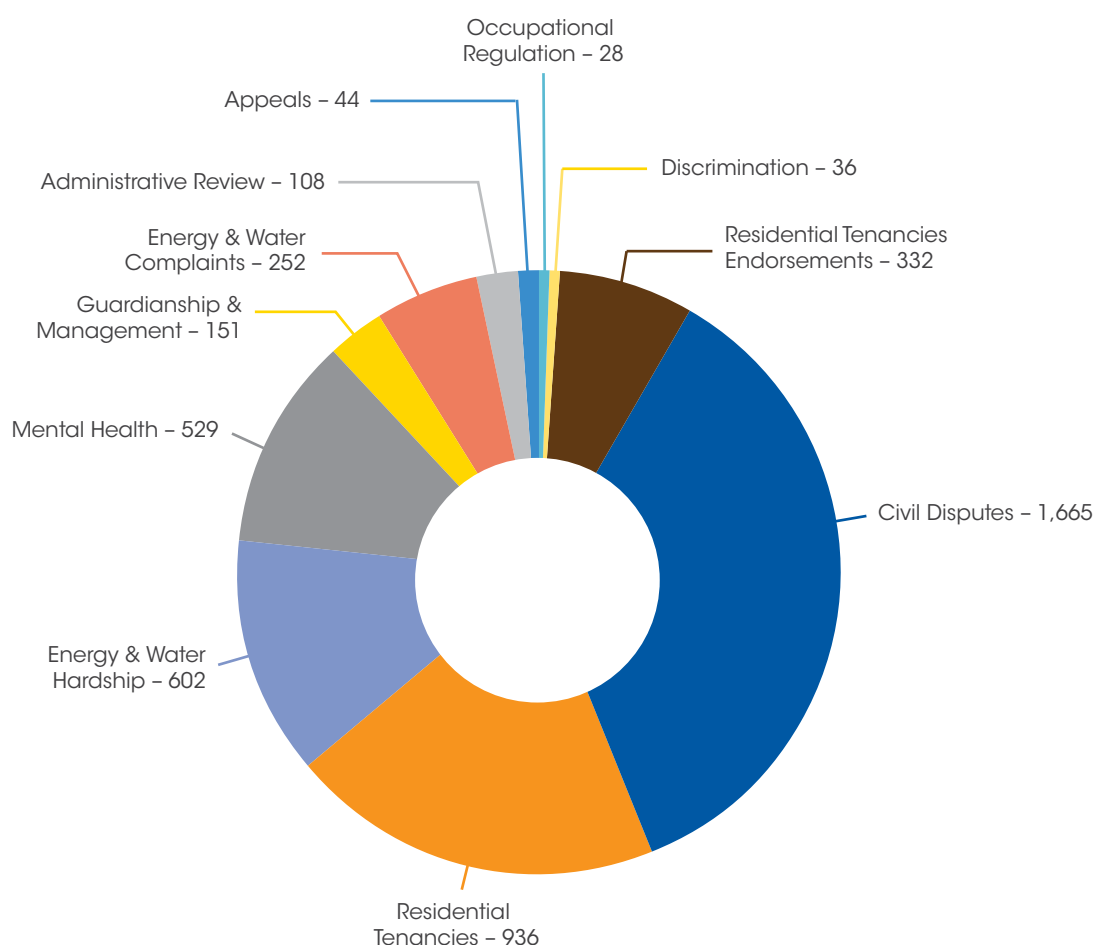
President

September 2020

Statistics and performance information

YEAR AT A GLANCE

New applications received by subject matter 2020-21



OVERALL WORKLOAD AND OUTCOMES

The number of new applications stabilised across the tribunal during the reporting period. Decreases in civil dispute applications were noted, with increases across the remaining jurisdictional areas.

Pending matters more than 12 months old increased slightly during the reporting period, with an increase across the tribunal of around 285 matters due mainly to measures undertaken to triage urgent and non-urgent applications due to the ACAT's COVID-19 response. At 30 June 2020, the total number of pending matters aged greater than 12 months was 38, which is 0.81% of total lodgements.

	2015-16	2016-17	2017-18	2018-19	2019-20
Applications lodged*	4,794	4,587	5,051	4,764	4,683
Files finalised*	4,359	3,859	4,133	4,037	3,777
Applications pending#	1,056	979	1,178	1,025	1,310
Pending > 12 months#	23	94	96	31	38
Clearance rate#	104%	95%	94%	104%	91%
Reviews held^	2,363	1,987	2,090	1,909	1,801

Notes:

* includes applications for endorsement of inconsistent terms; # does not include mental health, guardianship and utilities files; ^ reviews held on tribunal's own initiative in mental health, guardianship and utilities cases

The table below compares the number of tribunal resolution events for each of the past five years. There was a changeover between case management systems during 2016-17, and a change to how matters were counted in previous years, making comparisons with earlier years difficult.

Resolution Events – All Work Areas	2015-16	2016-17	2017-18	2018-19	2019-20
Mediation/preliminary conferences	1,465	1,106	1,102	1,142	1,273
Interim hearings	149	194	199	211	193
Motions hearings	319	130	145	140	110
Substantive hearings (includes resumed hearings)	6,522	4,737*	7,037	6,495	6,138

Notes: * does not include in-chambers orders.

APPEALS

A party to an original application, may, for most cases, lodge an application for appeal within the tribunal on a question of fact or of law once the tribunal has decided the original application. There is no internal appeal process for decisions made under the *Heritage Act 2004*, the *Planning and Development Act 2007* and the *Tree Protection Act 2005*. Parties in these matters may only appeal to the Supreme Court on a question of law.

In the reporting period, 44 applications for appeal were lodged with the tribunal and 49 applications were finalised.

Internal Appeals	2015-16	2016-17	2017-18	2018-19	2019-20
Applications lodged	61	52	47	50	44
Applications finalised	54	60	57	41	49

Type of Appeals	2015-16	2016-17	2017-18	2018-19	2019-20
Civil disputes	19	18	13	24	17
Residential tenancies	26	17	23	14	15
Unit titles	0	1	2	3	1
Occupational regulation	4	1	0	1	4
Administrative review	5	6	6	3	1
Discrimination	0	2	0	3	1
Mental health	3	2	1	1	3
Guardianship	1	3	2	1	2
Energy and water	1	2	0	0	0
Extension of time	2	8	4	4	7

Note: Extensions of time will also be counted under the subject area they relate to. For this reason, the table adds up to a number greater than total lodgements.

The tribunal may refer questions of law and original applications or appeals to the Supreme Court. Two applications for appeal from an ACAT decision were lodged with the Supreme Court and two applications were received for removal of matters to the Supreme Court under section 83 of the ACAT Act. Of the eight appeals to the Supreme Court that were completed in the reporting period, both from the current and previous reporting period, six were discontinued or dismissed. Two appeals were allowed, with one of these judgments being successfully appealed to the Court of Appeal, and the other discontinued after lodgement in the Court of Appeal.

ADMINISTRATIVE REVIEW

The ACAT reviews a diverse range of administrative decisions made by government entities.

The President allocates members with relevant experience or expertise to hear each application. Where no member with necessary expertise is available, the President may appoint an assessor under section 97 of the ACAT Act to ensure the ACAT has the requisite specialist or technical advice available to it. No assessors were appointed during 2019-20.

The tables that follow show the number of applications made and finalised over the previous five years and the type of decisions for which review has been sought. Decisions with similar subject matter have been grouped together.

Administrative Review	2015-16	2016-17	2017-18	2018-19	2019-20
Applications lodged	91	79	103	107	108
Applications finalised	102	91	88	106	112

Decision Type	2015-16	2016-17	2017-18	2018-19	2019-20
Cases subject to 120 day limit					
Planning and development	22	29	30	28	37
Heritage	1	0	0	1	0
Tree protection	4	2	4	2	4
Other Cases					
Building and construction	4	2	2	4	3
Revenue ¹	27	23	28	39	21
Licences and permits	12	9	19	12	11
Dog matters	2	2	10	12	27
Freedom of Information	4	2	3	1	0
Public housing allocation/ rental rebate	5	9	2	1	0
Victims of crime	-	-	-	2	0
Miscellaneous	10	1	5	1	4

Applications concerning the same, or a substantially similar, decision may be heard together. The 108 new applications lodged related to 96 decisions.

Each application is individually case-managed by a Presidential Member, at an initial directions hearing and through the making of directions in chambers. ADR is utilised in the majority of matters at an early stage. This enables the parties to explore the issues in a confidential setting and, where possible, reach an outcome by agreement before the cost of preparing for hearing has been incurred. The ACAT obtains the parties' views on ADR at the first directions hearing and the parties may be directed to participate in purely facilitative or blended mediation, or a preliminary conference conducted within a conciliation or neutral evaluation framework. Where agreement is reached, orders finalising the matter are usually made the same day, or later in chambers so that the parties are not required to attend the ACAT on a further occasion.

Of the 58 matters referred to mediation in the reporting period, 25 (43%) were resolved at ADR, 12 (21%) were resolved after ADR and 21 (36%) proceeded to hearing. Eleven matters, representing four decisions underwent a preliminary conference, with seven settling prior to hearing and the remaining four proceeding to hearing.²

The ACAT aims to have all applications completed in less than twelve months. On average, matters finalised during the reporting period were completed in 115 days from being commenced and involved between 3 and 4 tribunal events.³

¹ Applications for review of decisions about change of use charges, motor vehicle duty, payroll tax, rates, land tax, stamp duty and first home owners' grants have been grouped together under the classification "Revenue".

² For an explanation of the parameters applied for ADR reporting see *Efficiency* earlier in this document.

³ A tribunal event is an attendance by the parties upon the tribunal such as a directions, final or interlocutory hearing, mediation, return of subpoena, etc. Each day of a hearing is counted as a separate event.

There were 36 active administrative review matters at the end of the reporting period. The table below shows the age of matters not yet finalised at the end of the current and prior years.

At the end of the reporting period, three pending matters were older than 12 months. Of those, one had been heard and the decision reserved, and one was adjourned pending the outcome of related criminal proceedings. The third matter involved review of a decision about payroll tax and was awaiting a decision on a related application, the review of which would be conducted jointly.

Age of pending applications for administrative review as at 30 June 2020

Age of files	0–3 months	3–6 months	6–9 months	9–12 months	12 months+	Total
2019–20						
No of files	19	6	3	5	3	36
% of files	52.78%	16.67%	8.33%	13.89%	8.33%	100%
2018–19						
No of files	31	7	5	1	0	44
% of files	68.89%	15.56%	11.11%	4.44%	0.00%	100%

Section 22P of the *ACAT Act 2008* requires applications made under the *Heritage Act 2004*, the *Planning and Development Act 2007* and the *Tree Protection Act 2005* to be decided within 120 days after the date the application is made. The time for deciding the application may be extended by the President if satisfied that the extension is in the interests of justice. The time limit is difficult to meet in matters in which there are more than two parties, when parties ask for additional time to obtain experts' reports or when a collateral or interlocutory issue interrupts the tight hearing preparation schedule.

Time was extended for several applications during the reporting period. Requests to extend time were either made by parties jointly or were not opposed. For some matters, parties were required to file brief submissions explaining why the extension sought was in the interests of justice. The information provided below explains the circumstances in which each extension was granted:

Bowden v ACT Heritage Council

AT 112/2018 – time extended by 75 days. The application was filed in December 2018. The hearing was listed for two days shortly before the end of the 120 day period. The decision was reserved on the final day of hearing. The ACAT's decision was handed down in June 2019.

Darnbrough v ACT Planning and Land Authority

AT 108/2018 – time extended by 81 days. The application was filed in early December 2018. The hearing was listed for three days shortly before the end of the 120 day period. The decision was reserved on the final day of hearing. The ACAT's decision was handed down in June 2019.

Errington v ACT Planning and Land Authority

AT 104/2018 – time extended by 133 days. The application was filed in late November 2018. The respondent filed a strikeout application which was heard in February 2019. The ACAT reserved its decision. The decision for the interim application was handed down in May 2019. The matter was then listed for a directions hearing to set a timetable for the substantive matter. The applicant withdrew its application in August 2019.

North Canberra Community Council v ACT Planning and Land Authority

AT 109/2018 – time extended by 173 days. The application was filed in early December 2018. The hearing was listed for three days shortly before the end of the 120 day period. On the third day of hearing the matter was set down for an additional day on a date to be fixed. The decision was reserved on the final day of hearing and the ACAT made orders for the filing of further submissions. The ACAT made further orders regarding the filing of further submissions after the parties advised that there were some legislative changes which could affect the decision. In September 2019 the ACAT provided the parties with Directions inviting further submissions, which included the draft decision and written reasons. The ACAT's decision was handed down in late September 2019.

McAndrew & Tomlins v ACT Planning and Land Authority

AT 8/2019 – time extended by 168 days. The application was filed in early February 2019. The hearing was listed for three days in late April 2019. The decision was reserved on the final day of hearing. The ACAT's decision was handed down in November 2019.

McAndrew & Tomlins v ACT Planning and Land Authority

AT 9/2019 – time extended by 168 days. The application was filed in early February 2019. The hearing was listed for three days in late April 2019. The decision was reserved on the final day of hearing. The ACAT's decision was handed down in November 2019.

Canberra District Rugby League Football Club Limited ACN 008 568 634 v ACT Planning and Land Authority

AT 43/2019 – time extended by 41 days. The application was filed in June 2019. The hearing was listed for three days in September 2019. In August 2019, after consideration of an application to vary the timetable, the ACAT made orders and the matter was listed for a four day hearing in October 2019. At the beginning of the fourth day of the hearing the parties indicated that a settlement had been reached. The ACAT listed the matter in late November 2019 for consent orders to be made. Just prior to the listing the applicant withdrew its application.

The Estate of the late Chris Maleganeas v ACT Planning and Land Authority

AT 34/2019 – time extended by 73 days. The application was filed in early May 2019. In August 2019 an application was made to vacate the hearing due to the applicant's passing and the matter was stood over until September 2019. The hearing of that application was listed for one day after the 120 day period. In November 2019 the ACAT heard from the parties about how the matter should proceed and made orders dismissing the application for review.

Peraic & Ors v ACT Planning and Land Authority

AT 36/2019 – time extended by 99 days. The application was filed in early May 2019. The hearing was listed for in early August 2019. The decision was reserved on the final day of hearing and the ACAT made orders for the filing of further submissions. The ACAT received an application for interim or other orders seeking to reopen the case to allow the respondent to tender further material. The tribunal considered this request and referred to it in its written decision. The ACAT's decision was handed down on 19 December 2019.

Eldridge v ACT Planning and Land Authority

AT 76/2019 – time extended by 90 days. The application was filed in late August 2019. Due to the Christmas shutdown period, there was a delay in listing the matter for hearing and the hearing date was not able to be set until the 120 period had passed. The hearing was listed for three days in early January 2020. The ACAT reserved its decision on the final day of hearing. The ACAT handed down its decision in late March 2020.

Dahlenburg v Conservator of Flora & Fauna

AT 94/2019 – time extended by 84 days. The application was filed in May 2018. The matter was listed for hearing on the 120th day. The applicant sought an adjournment of the hearing on 14 February 2020. By consent of both parties, the hearing date was vacated. On 25 February 2020 the ACAT contacted the parties to arrange for a suitable date in April for the hearing of this matter. The ACAT did not receive a response from the applicant and listed the matter for mention on 11 May 2020 to arrange a new hearing date. On 8 May 2020 the applicant advised that he no longer wished to proceed with his application and orders were made dismissing the application in May 2020.

CIVIL, RETIREMENT VILLAGES AND UNIT TITLES DISPUTES

The ACAT decides applications relating to civil disputes about contracts, damages, debt, goods, nuisance, trespass, debt declarations, common boundaries (fences) and other matters that are stated to be civil dispute applications in an authorising law, for amounts up to \$25,000.

Most civil applications are resolved at ADR conferences before the scheduled hearing. The tribunal seeks to ensure that conferences and hearings are listed with minimal delay. Preliminary conferences are usually held within three or four weeks of receipt of a response document. Hearings are usually listed within six to eight weeks of an unsuccessful conference.

	2015-16	2016-17	2017-18	2018-19	2019-20
Civil applications lodged	1,326	1,428	1,716	1,767	1,625
Common boundaries applications lodged	27	20	29	24	24
Unit titles applications lodged	43	25	33	32	40
Retirement villages	1	1	4	0	0
Applications finalised	1,528	1,273	1,649	1,805	1,542

The types of civil dispute applications received, as identified at the lodgement of the application, are:

Type of application	2016-17	2017-18	2018-19	2019-20
Australian consumer law	20	14	20	37
Common boundaries	20	29	24	24
Contract	59	74	81	74
Damages	193	204	193	230
Debt	1,060	1,316	1,283	1,183
Debt declaration	9	6	1	8
Goods	68	74	66	48
Nuisance	7	12	17	13
Trespass	3	3	4	3
Other	9	13	4	5
Total	1,448	1,745	1,693	1,625

The amounts sought in civil dispute applications in 2019–20 were as follows:

Amount of claim	2016–17	2017–18	2018–19	2019–20
\$3,000 and under	617	759	787	714
\$3,001 to \$15,000	754	820	766	767
\$15,001 and over	77	166	140	144
Total	1,448*	1,745	1,693	1,625

Notes:

* The jurisdictional increase from \$10,000 to \$25,000 took effect from 15 December 2016.

The civil jurisdiction of the ACAT was increased from \$10,000 to \$25,000 on 15 December 2016. Parties can consent to the tribunal dealing with applications for sums greater than \$25,000. The number of claims lodged with the ACAT for more than \$10,000 was 283 in 2019–20 compared with 279 in 2018–19.

The number of new civil dispute applications remained stable over the period. In 2019–20, the average number of days elapsed between the opening of a file and the closing of a file was 162 days, an increase from 156 days in 2018–19. This result is due to the increasing complexity of some applications now before the tribunal, and due to the case management of applications during the COVID-19 crisis. Measures employed to manage these timeframes include restricting adjournments of conferences, increasing focus on ensuring parties are prepared for hearings to further reduce the frequency of adjournments, reviewing the effectiveness of different ADR techniques and tribunal procedures, regularly reviewing files that have been open for more than six months and using members to conduct preliminary conferences. A callover of all civil matters affected by the ACAT's deferral of non-urgent matters during COVID-19, will be held during September 2020 to review matters lodged but not yet progressed.

Applications can be made to the ACAT under the *Retirement Villages Act 2012* to resolve disputes arising within a retirement village. Disputes about the rights of residents, operators' obligations in relation to maintenance and financial matters, and residents' involvement in village management may be brought to the ACAT. No applications were filed in the reporting period.

The *Unit Titles (Management) Act 2011* empowers the tribunal to hear a range of applications about unit titles holdings. There were 40 applications in the reporting period, an increase on the previous reporting period.

Unit title and retirement village disputes are often complex and can include many parties with competing interests. Directions hearings are held in the first instance so that a member can identify the issues in dispute, identify any additional parties that need to be joined and determine the best procedure for dealing with the particular case. Some matters lend themselves to early mediation, while others require interim determinations and quick hearings.

DISCRIMINATION

The ACAT hears discrimination complaints under the *Human Rights Commission Act 2005*. Discrimination complaints are referred to the ACAT by the Human Rights Commission (HRC). Thirty-six new referrals were received in the reporting period, and 28 matters were finalised.

The ACAT also receives a copy of conciliation agreements reached at the HRC in complaints relating to discrimination. As shown in the table below, the ACAT received 33 conciliation agreements from the HRC in the reporting year. A party to a conciliation agreement may apply to the ACAT for orders to give effect to the agreement. During the reporting period one such application was received.

Discrimination	2015-16	2016-17	2017-18	2018-19	2019-20
Complaints referred	11	13	17	24	36
Complaints finalised	11	8	9	24	28
Conciliation agreements registered	22	18	32	32	33
Application for orders in relation to conciliation agreement ⁴	-	-	-	-	1

The 36 referred complaints involved 34 complainants. The primary grounds of complaint for referred complaints and conciliation agreements were as follows:

Primary ground of complaint – 2019-20 discrimination matters	Referrals	Conciliation agreements	Total
Age	2	0	2
Disability	12	15	27
Pregnancy	0	1	1
Race	9	7	16
Relationship status	1	0	1
Religion or political	2	0	2
Professional or trade organisation	3	1	4
Victimisation	2	1	3
Sex	2	6	8
Sexuality	2	1	3
Status as a parent or carer	1	1	2
Total	36	33	69

The 36 referred complaints continues the pattern of increased referrals which, due to the resource intensive nature of this litigation, has a significant impact on the ACAT's resources despite the apparently low number of cases.

⁴ This is the first year in which this data has been collected.

While the ACAT's processes are flexible and designed for parties to represent themselves, discrimination cases can be complicated. The ACAT usually adopts a step-by-step approach to the preparation of a discrimination matter for hearing, bringing the parties together for a directions hearing at the conclusion of each step. This approach enables each stage of preparation to be understood and undertaken without a self-represented litigant becoming overwhelmed. However this approach has a distinct impact on ACAT's resources: discrimination complaints finalised in the reporting period averaged close to four tribunal events per matter.⁵

Most parties in this jurisdiction would benefit from expert assistance with the preparation and presentation of their case. In some cases, where a party is unable to comply with directions to provide written witness statements or particulars of the complaint, the ACAT will conduct the hearing by way of oral evidence and submissions, over separate days. That process allows adequate time for the other party to respond to the case.

ADR is offered in all discrimination matters, giving the parties the opportunity to explore the issues in a confidential setting and, where possible, reach an outcome by agreement at an early stage. In many matters, the parties do not wish to participate in ADR at the ACAT because the complaint has previously been the subject of conciliation before the Discrimination Commissioner. The ACAT obtains the parties' views on participating in ADR at the first directions hearing and the parties may be directed to participate in purely facilitative mediation, or a preliminary conference conducted within a conciliation or neutral evaluation framework. Where an agreement is reached at ADR, orders finalising the matter are usually made the same day, or later in chambers so that the parties are not required to attend the ACAT on a further occasion.

Of the 12 matters referred to mediation in the reporting period, two (17%) were resolved at ADR, and the remaining 10 (83%) proceeded to hearing.

The ACAT aims to resolve all discrimination complaints and applications for orders relating to conciliation agreements within 12 months. The timeframe to finalisation can vary greatly, depending upon the resources available to the parties and whether a party's preparation for hearing is delayed by reason of disability, health or other accessibility issues.

During the reporting period, the number of pending complaints awaiting finalisation has increased slightly, which is attributable to the greater number of complaints referred, and some delayed preparation of applications for hearing during the COVID-19 crisis.

Age of pending files for discrimination matters as at 30 June 2020

Number of complaints	0-3 months	3-6 months	6-9 months	9-12 months	12 months+	Total
2019-20	8	5	5	2	5	25
2018-19	3	2	5	1	4	15

There were five matters more than twelve months old at the end of the reporting period. Of these, one had been heard and the decision reserved, and two were to be heard in July 2020. The remaining two were related matters commenced in 2017, the preparation of which has been delayed due to accessibility issues and the extent of each complaint.

⁵ A tribunal event is an attendance by the parties upon the tribunal such as a directions, final or interlocutory hearing, mediation, return of subpoena, etc.

GUARDIANSHIP AND MANAGEMENT OF PROPERTY

The *Guardianship and Management of Property Act 1991* gives the ACAT power to make orders appointing guardians and financial managers for adults who have impaired decision-making ability.

The tribunal may also make orders about enduring powers of attorney and about people for whom a guardian or manager has been appointed. Orders can be made to provide consent for prescribed medical procedures; to address a situation of emergency; to revoke enduring powers of attorney or remove attorneys; to make a declaration about the interpretation or effect of an enduring power of attorney or the decision-making capacity of a principal; to give direction or advice to a guardian or manager about the exercise of their powers, and to adjust some financial transactions.

This is a protective jurisdiction with a strong inquisitorial process. Tribunal staff request reports from health professionals, care providers and the Public Trustee and Guardian of the ACT (PTG) to provide information for hearings. The priority is the interests of the subject person.

Applications in proper form are listed for hearing usually within three to six weeks of receipt. Most matters are finalised on the first listing date. A few matters are adjourned to allow further information to be obtained. Hearings may be held at short notice in circumstances of urgency, and, as noted earlier in this Review, may take place at a hospital or elsewhere to enable the subject person to attend and participate in the hearing. Hospital hearings are held as promptly as possible to avoid delay in a patient's discharge.

The role of the tribunal continues after orders are made. Each order must be reviewed on the tribunal's own initiative at least once in each three year period. An order may be reviewed at any time if an application for review is made. Reviews on the tribunal's own initiative are scheduled for any time from three months to three years after an order is made depending on the nature of the condition that leads to the impairment of decision-making and the circumstances of the protected person.

Review hearings on the tribunal's own initiative are usually conducted 'on the papers', based on information gathered from the protected person, the guardian or manager and any carer or other interested party. Full hearings are scheduled at the request of the protected person, or if the information provided (or not provided, as the case may be) indicates that there has been (or might have been) a change in circumstances.

Managers are required to lodge annual accounts with the PTG regarding their administration of the protected person's assets and money. The PTG reports to the tribunal about the outcome of examinations of the accounts and about any failure to submit accounts. The tribunal reviews the appointments of managers who do not comply with the obligation. This can sometimes lead to the revocation of a manager's appointment.

Guardianship and management of property orders	2015-16	2016-17	2017-18	2018-19	2019-20
Applications lodged	313	285	190	191	151
Own motion reviews of orders	480	570	495	404	470
Emergency appointments	24	31	16	6	14

The table below records the primary condition affecting people the subject of new applications using four categories recognised internationally. Other Australian guardianship tribunals keep the same data. The category 'Acquired brain injury' includes people who have had strokes or other illness such as meningitis, as well as those who have sustained traumatic injury in accidents.

Conditions affecting subject people	2015-16	2016-17	2017-18	2018-19	2019-20
Dementia	50%	38%	37%	49%	54%
Mental illness	18%	18%	21%	14%	19%
Intellectual disability	17%	27%	26%	24%	11%
Acquired brain injury	15%	17%	17%	13%	16%

The tribunal continues to participate in the evolving debate about the extent to which supported decision-making should prevail over substituted decision-making (i.e. the appointment of a guardian and/or manager) and, where an appointment is made, the kinds of powers that ought to be given to a guardian and/or manager.

The tribunal has also heard disputes about enduring powers of attorney, especially on the question of whether a principal had capacity at the time he or she appointed an attorney. These matters can involve high levels of conflict between family members and require longer hearings, more detailed preparation and greater gathering of evidence. It is difficult to obtain empirical reports about this issue because, in most cases, disputes about the appointment of an attorney arise in the context of an application for orders appointing a guardian or manager and are recorded as such in the case management system. It is expected that disputes about powers of attorney will become more common because of their increased use in the community, their ease of execution and the growing wealth of many elderly people.

The ACAT acknowledges the considerable assistance it receives from staff of the PTG. Their reports in relation to each matter before the tribunal are invaluable, contributing constructively to the tribunal's determination of originating applications and reviews of existing appointments of guardians and/or managers. Particularly in contested applications, staff from the PTG fulfil an invaluable role in response to submissions that have been put, and assist the tribunal in identifying important legal principles relevant to determination of applications.

MENTAL HEALTH

The *Mental Health Act 2015* focuses on persons with a 'mental illness' or a 'mental disorder', as defined in the *Mental Health Act*, who lack capacity to make decisions about their treatment, care and support, and who need treatment and do not agree to receive treatment. Guardians can make decisions about treatment for people who do not have capacity to make their own decisions and who do not refuse treatment.

The tribunal may make orders authorising the assessment of a person's mental health. It can order the involuntary treatment of a person with a mental illness or mental disorder under a psychiatric treatment order, a community care order or a forensic mental health order. Most orders are reviewed on the tribunal's own initiative before they expire.

In appropriate cases, where statutory criteria are satisfied, the tribunal authorises extensions of periods of emergency detention and the administration of electroconvulsive therapy.

In addition, the tribunal considers matters referred to it by courts. The tribunal may determine and report to a court about whether a person charged with a criminal offence has a mental impairment. The tribunal may also make mental health orders in relation to people who are required by courts to submit to the jurisdiction of the tribunal because they are unfit to plead, or have been found not guilty by reason of mental impairment, or have had charges summarily dismissed. The tribunal can also review orders for detention and impose conditions on release from detention of a person found not guilty of a criminal offence by reason of mental impairment.

Procedures under the *Mental Health Act* set tight time frames and statutory obligations that govern workflow. As noted earlier, the tribunal sits at The Canberra Hospital each Monday afternoon and Thursday morning for applications involving inpatients, and at the tribunal's premises each Monday morning and Thursday afternoon for people living in the community. Hearings are sometimes held at the Older Persons Mental Health Unit at Calvary Hospital. Many hearings are conducted by video-link or by telephone.

Mental health	2015-16	2016-17	2017-18	2018-19	2019-20
Applications for mental health orders	246	447	437	477	529
Psychiatric treatment orders made		637*	607	608	706
Community care orders made		10	4	13	4
Restriction orders made		9	4	13	6
Electro-convulsive orders made		21	29	37	49
Conditional release orders made		8	11	20	22
Applications dismissed		17	22	17	36
Reviews of existing orders where no further order was made		76	70	48	31
Applications for extension of emergency detention	334+	380+	448	488	529
Emergency detention orders made		384**	454	510	567
Forensic referrals	22	13	21	21	22
Applications for ECT	14	23	25	37	54
Own motion reviews of orders	917	678	530	488	525
Requests for revocation	254+	163+	133	145	154

Notes:

+ This data comes from the Chief Psychiatrist's records.

* Psychiatric treatment orders can be made in response to an original application, or on review of an existing psychiatric treatment order, hence the number of orders exceeding the number of applications.

** Emergency detention orders can be made on application or on review of an existing order.

The issues that must be considered under the *Mental Health Act* before making a mental health order have increased the amount of detail required in reports from psychiatrists in support of an application for an order and the length of hearings, which normally occupy 30-50 minutes. The changes have also required a substantial increase in the time needed by members and registry staff to prepare orders, which must be accompanied by a written statement that sets out how the criteria for making the order were met. These many requirements have put pressure on the resources of the hospitals and the tribunal.

Files in this jurisdiction relate to the subject person rather than to the discrete application or review relating to them. The file technically remains open, unless the person who is the subject of the application dies.

The tribunal's ability to meet its statutory obligations is greatly assisted by the work of ACT Health's Tribunal Liaison Officers, the doctors who prepare reports in relation to applications for mental health orders, the duty lawyer service operated by Legal Aid ACT and the work of the Public Advocate of the ACT and Victim Support ACT. These services are vital for ensuring procedural fairness for people who are the subject of applications and reviews. The tribunal acknowledges their important contributions.

OCCUPATIONAL AND PROFESSIONAL REGULATION

The ACAT makes orders for the regulation and discipline of people in a wide range of professions and occupations including health professionals, legal practitioners, liquor licensees, security guards, real estate agents, veterinarians, teachers and various construction occupations. Applications may be made by a regulatory authority seeking orders to discipline a licensee or a registered person. Applications may also be made by a licensee or registered person for the review of a decision that affects their licence or registration. The latter applications are instituted as occupational regulation cases however administrative review processes are applied.

Twenty-eight new applications were received, and 40 matters were finalised. The tables below show the number of applications received and completed by category.

Total matters	2015-16	2016-17	2017-18	2018-19	2019-20
Applications lodged	31	24	24	37	28
Applications finalised	40	32	19	30	40

By occupation	2015-16	2016-17	2017-18	2018-19	2019-20
Health practitioners	6	3	4	8	4
Lawyers	12	6	5	7	5
Liquor licensees	0	1	0	1	0
Security guards	2	0	1	1	2
Construction occupations	2	5	0	4	6
Long Service Leave Authority	0	0	4	5	4
Working with vulnerable people	3	2	7	2	4
Agents	-	-	-	7	3
Miscellaneous	6	7	3	2	0

The Australian Health Practitioner Regulation Agency has asked tribunals throughout Australia to provide more detailed information in annual reviews about applications relating to health practitioners. Of the four new applications relating to health practitioners, two sought review of decisions about clinical practice made under the *Health Act 1993*. The two matters brought under the *Health Practitioner Regulation National Law* sought review of a decision in relation to registration of a psychologist and review of a decision by the Paramedicine Board.

The ACAT aims to have all applications completed in less than 12 months. There is some variation in the time taken to finalise an occupational regulation application. Some applications require several interlocutory hearings and final hearings of several days,⁶ while other applications are completed within a shorter timeframe and with only one day of hearing. Matters finalised during the reporting period took, on average, approximately 183 days from commencement to conclusion, with an average of at least 3 tribunal events⁷.

The case management of an occupational discipline or regulation application (including the use of ADR, and level of preparation for, and formality of, the hearing) is dictated by the relevant legislation and the particular issues in the case. The best pathway for any particular matter is discussed with the parties at the first directions hearing, when the timetable for preparation and hearing is put in place.

At the first directions hearing the ACAT considers whether ADR in the form of mediation or a preliminary conference should be scheduled, to enable the parties to explore the issues in dispute in a confidential setting. If the parties agree on an appropriate disciplinary outcome after mediation or conference, a joint submission is made to the ACAT so that it may consider all relevant factors before deciding whether to make orders in terms of the agreement reached. Because occupational discipline and regulation matters are protective of the public, parties may be required to attend the ACAT to elaborate on the joint submission or provide further information relevant to the exercise of the ACAT's discretion, before final orders are made.

Of the 13 matters referred to mediation in the reporting period, five (38%) were resolved at ADR, two (15%) were resolved after ADR and six (46%) proceeded to hearing. Two matters underwent a preliminary conference and of these, one was resolved at ADR and the other proceeded to hearing.⁸

The number of active applications in this work area decreased at the end of the reporting period from seven to five. The single matter more than 12 months old is a construction occupation matter in which the final hearing commenced and was then adjourned as the parties reached an in-principle agreement and sought time to enter into a formal deed.

Age of pending applications for occupational regulation as at 30 June 2020

Age of files	0-3 months	3-6 months	6-9 months	9-12 months	12 months+	Total
2018-19						
No of files	9	6	2	2	1	20
% of files	45.0%	30.0%	10.0%	10.0%	5.0%	100%
2019-20						
No of files	2	2	0	0	1	5
% of files	40.0%	40.0%	0.0%	0.0%	20.0%	100%

⁶ For example, in disciplinary applications under the *Legal Profession Act 2006* where the rules of evidence apply the parties prepare their evidence by way of affidavit, and there may be preliminary hearings seeking further particulars or for objections to evidence to be heard and decided.

⁷ A tribunal event is an attendance by the parties upon the tribunal such as a directions, final or interlocutory hearing, mediation, return of subpoena, etc. Each day of final hearing is counted as a separate event.

⁸ For an explanation of the parameters applied for ADR reporting see *Efficiency* earlier in this document.

RESIDENTIAL TENANCIES DISPUTES

The ACAT has jurisdiction under the *Residential Tenancies Act 1997* to hear and determine disputes arising from tenancies and occupancy agreements in relation to private and public housing.

The tribunal also considers applications for endorsement of inconsistent terms of tenancy agreements and holds negotiation conferences for matters referred from the Office of Rental Bonds.

The number of new applications about disputes increased by around 200 from the previous reporting period. In 2019–20, there was a slight increase in applications from the ACT Commissioner for Social Housing compared to 2018–19, when a change of policy which saw the Commissioner making fewer applications to the tribunal. There was also a 38% increase in rental bond disputes, with 164 more applications than received in 2018–19.

Legislative amendments to the *Residential Tenancies Act 1997* related to new reasons for application to the tribunal for the resolution of disputes around tenants keeping pets or making modifications to premises, break lease fees and rent increases.

The average number of days elapsed between the opening of a residential tenancies file and the closing of that file is 58 days, which is a slight increase from 2018–19. Applications for endorsement also increased during the period.

Residential tenancies	2015–16	2016–17	2017–18	2018–19	2019–20
Applications lodged	1,175	1,093	1,068	730	936
Applications finalised	1,176	1,108	1,039	1,767	824
Endorsement applications	358	381	335	246	332
Endorsement applications completed	328	401	302	271	215

The types of residential tenancies dispute applications received, as identified at the lodgement of the application, are:

Type of application	2015-16	2016-17	2017-18	2018-19	2019-20
Abandoned before expiry of fixed term	3	0	0	0	0
Abandoned following notice	1	0	0	0	0
By lessor for access to inspect	251	246	192	82	77
By lessor for compensation	36	49	33	35	35
By lessor for refusal of animal on premises					7
By lessor for rental arrears	87	72	46	49	42
By lessor for rental increase	0	2	0	0	0
By tenant for animal on premises					2
By tenant for compensation	53	53	59	42	38
By tenant for other modification					2
By tenant for rent refund	5	2	4	4	2
By tenant for review of rental increase	1	4	9	6	6
By tenant for rent reduction	10	15	0	1	1
By tenant terminate tenancy	3	0	0	3	1
Reinstate – wrongful eviction	0	1	2	2	0
Rental bond dispute	374	348	379	266	430
Terminate tenancy Family Violence Order or Personal Protection Order	-	-	10	4	6
Termination and possession	317	272	291	184	217
Other	34	29	43	52	70
Total	1,175	1,093	1,068	730	936

The tribunal issued 40 warrants for eviction during the reporting year, compared with 47 warrants issued in 2018-19. A small number of applications for termination and possession orders or warrants for unpaid rent were stayed or adjourned under the *Residential Tenancies (COVID-19 Emergency Response) Declaration 2020 (No 1)*.

The outreach project for public housing tenancy matters with Canberra Community Law (CCL), continued throughout the period, with the tribunal facilitating community housing tenants contacting CCL by telephone for representation in termination and possession matters. CCL runs the Street Law project, aimed at assisting people who are homeless or who are at risk of becoming homeless. The tribunal may also facilitate contact between private tenants and Legal Aid.

UTILITIES – ENERGY AND WATER

The ACAT:

- has jurisdiction under the *Utilities Act 2000* (ACT) to determine applications for hardship assistance for residential energy and water customers who cannot afford to pay their bills and are facing disconnection or restriction of supply (hardship applications);
- performs the role of jurisdictional energy ombudsman for the ACT pursuant to the *National Energy Retail Regulations* (complaint applications);
- has jurisdiction under the *Utilities Act 2000* (ACT) to investigate and determine complaints made by customers and consumers against energy and water utilities licenced in the ACT;
- has jurisdiction under Electricity Feed-in Codes made under the *Electricity Feed-in (Renewable Energy Premium) Act 2008* (ACT) to investigate and determine complaints about the feed-in-tariff (complaint applications); and
- has jurisdiction under the *Privacy Act 1988* (Cth) to investigate and determine complaints against energy utilities in respect of credit default listings made by those utilities.

Energy and water hardship applications

On receipt of a hardship application, an initial hearing is held in which members consider the financial circumstances, utility usage and needs of the applicant. Orders are made requiring regular payments of amounts sufficient to meet ongoing usage costs and make a contribution to reducing any existing debt over a reasonable period of time. Hardship applications are case-managed for so long as the applicant remains under threat of disconnection due to debt. Orders are reviewed by a Deputy Registrar and staff at three- or six-month intervals according to the client's circumstances, payment record and any other case-management directives issued by the tribunal. Staff may refer cases to members for further hearing or prepare revocation orders or orders discharging debt for consideration by a senior or presiding member.

New applications

In the reporting period, there was a decrease in the number of new hardship applications, mainly related to the decision of utilities not to disconnect customers during the COVID-19 crisis. It is expected that application numbers and debt levels will increase as arrangements return to normal following COVID-19. New applications continue to be more complex, often involving high levels of debt and energy needs (often connected to illness) that exceed the consumer's capacity to pay. These cases require longer-term case management.

Home visits

A home visit is offered to clients who have mobility issues – physical, psychological or age related. Typically, a senior member or presiding member undertakes these visits accompanied by a registry staff member. After the initial home visit, reviews are often conducted by telephone. Six home visits were conducted during the reporting period.

Review of orders

In 2019–20, 5,983 orders were reviewed by staff and 806 orders were listed for a review hearing before members. In line with the ACAT's response to COVID-19, changes to processes and procedures were introduced, including the move to single member hearings via telephone. Increased and more intensive case-management by a Deputy Registrar and staff helped to reduce the need for a review hearing before a member.

Discharge of debt

Debts valued at around \$652,682 were discharged for 1,781 cases. Of these discharged debts, 79 debts valued at \$17,142 related to COVID-19. It is anticipated that COVID-19 related debt discharges will continue for some time.

Hardship applications	2015–16	2016–17	2017–18	2018–19	2019–20
Applications lodged	852	546	758	836	602
Reconnection orders	70	78	98	150	73
Initial hearings	541	375	673	625	463
Discharge orders	1,016	890	788	904	1,781
Home visits	5	0	6	3	6
Staff reviews	7,318	4,328	4,587	5,830	5,983
Review hearings	966	739	1,065	1,107	806
Applications finalised	836	686	710	656	689

Energy and water complaint applications

Complaints process

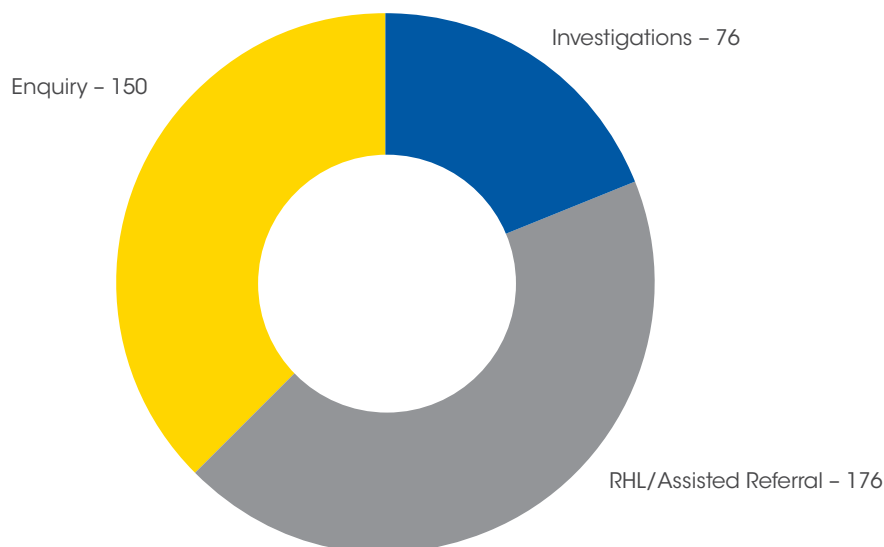
The ACAT Energy and Water (ACAT EW) is the jurisdictional energy ombudsman for the ACT pursuant to the *National Energy Retail Regulations* under the *National Energy Retail Law*. It has the role under the *Utilities Act 2000* (ACT) of considering and resolving water and sewerage complaints against Icon Water, and has the role of considering and resolving complaints against energy retailers in respect of credit default listings which do not comply with the *Credit Reporting Code* made under the *Privacy Act 1988* (Cth). These varied forms of complaint are dealt with in a single, uniform complaints process.

The ACAT EW complaint process has an emphasis on informal resolution, and wherever possible provides a process similar to energy and water ombudsman schemes in other jurisdictions. The majority of complaint applications are finalised through early resolution processes. When a complaint is received, the ACAT EW registry assesses the complaint and determines the appropriate resolution pathway. These actions can include:

- **Enquiry** – referring the customer back to the utility;
- **Referral to Higher Level (RHL)** – referring the complaint to a higher level within the utility and requesting it contact the customer directly to resolve the problem;
- **Investigation** – notifying the utility of the complaint and requesting a written response and information from the utility. Once the response is received, a process of conciliation occurs which includes the customer having an opportunity to provide a response and further information;
- **Conference and Hearings** – if the parties cannot agree on a resolution, or if the ACAT EW considers that the matter does not require further investigation, the customer is provided the option of proceeding through the formal processes of the tribunal, being a conference, a directions hearing and a formal hearing by a tribunal member.

In the 2019–20 financial year the ACAT received 402 new enquiries and complaints; see Table 1.

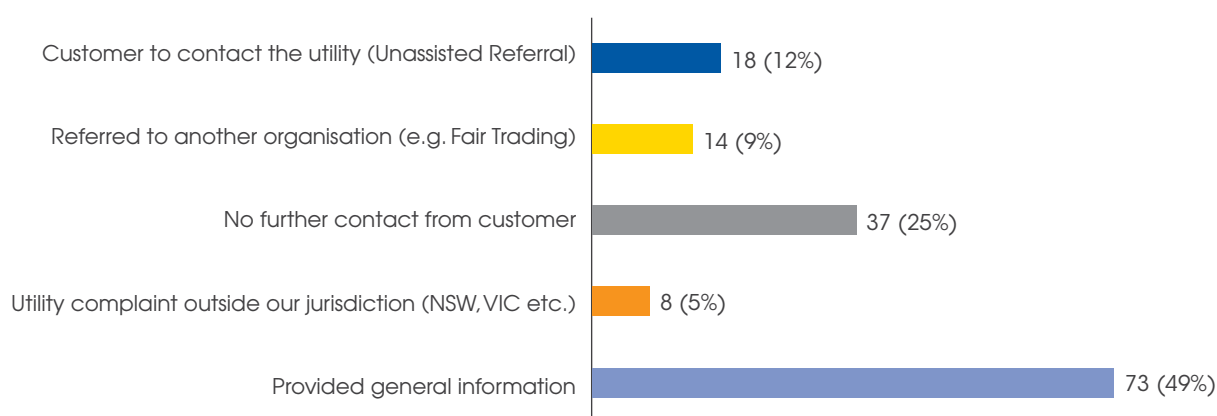
Table 1: How complaints were handled



New enquiries

In the 2019–20 financial year, the ACAT EW recorded 150 enquiries, compared with 174 enquiries in the 2018–19 financial year. Enquiries are identified as contact by a customer who may have an energy or water related issue, but the contact is not dealt with as a complaint application to the ACAT EW. This may include customers requiring general information, advice regarding utilities, or details on how to submit a complaint directly with the utility. It also includes contacts where the ACAT EW directs customers back to the utility as they have not attempted to resolve the complaint with their utility in the first instance. Complaints which do not fall under the ACAT EW's jurisdiction are also recorded in this area for statistical purposes.

Table 2: How Enquiries were dealt with

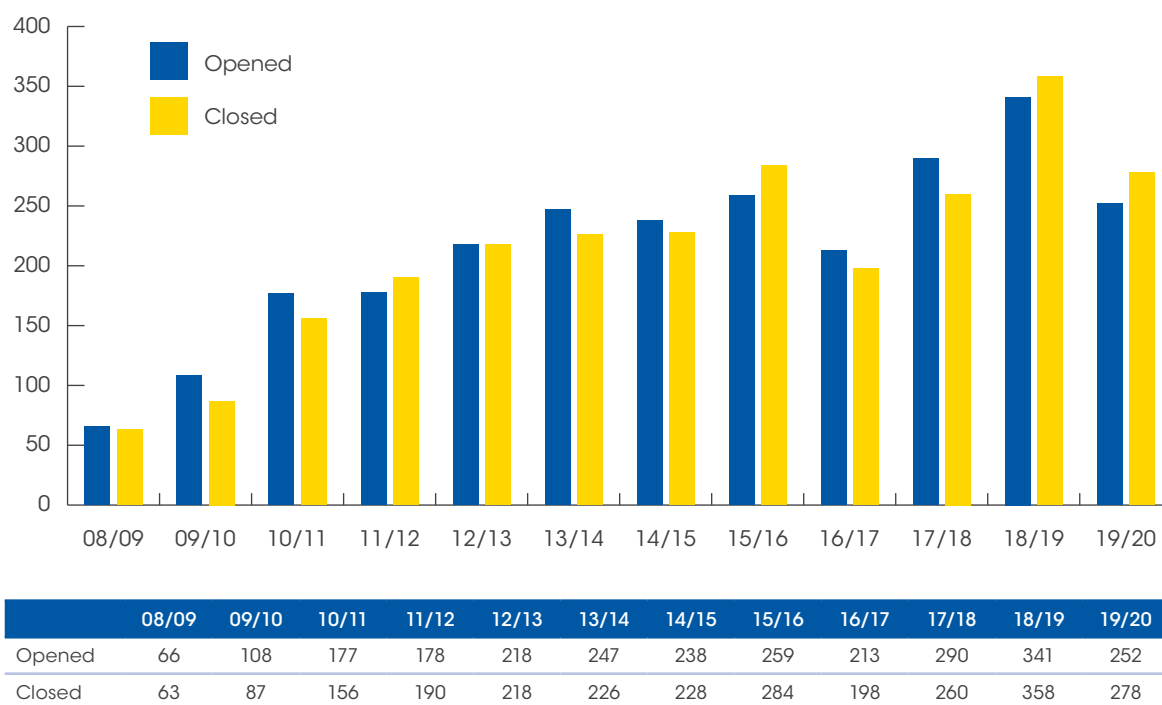


New complaints

In the 2019–2020 financial year, the ACAT EW received 252 new enquiries and complaints, a 26% decrease from 2018–19 when 341 new enquiries and complaints were recorded. Comparatively, an 18% increase in new complaints was recorded in 2018–2019, compared with 2017–18. The decrease in new complaint numbers in 2019–20, at least in part, was related to the Australian Energy Regulator's requirement that debt collection and disconnections cease during the COVID-19 crisis, and customers being distracted by the pressures of that crisis. Of the 252 new complaints in 2019–20, 176 complaints were referred to the utility through the RHL process and 76 complaints were investigated. The 76 complaints investigated included unsuccessful RHLs where the customer decided to continue with their complaint.

Table 3 records the total number of new enquiries and complaints opened and closed each year since the ACAT EW commenced operation.

Table 3: Total complaints opened and closed



Utility complaint performance

In the 2019–2020 financial year, ActewAGL Retail remained the utility for which the ACAT EW received the most complaint applications, which reflects ActewAGL Retail’s market share in the ACT. However, there was a 39% decrease in ActewAGL Retail complaints in comparison with the previous financial year, compared with the overall decrease of 26%. This might reflect changes to their internal handling of complaints, or a lessening market share as other retailers increase their presence in the ACT.

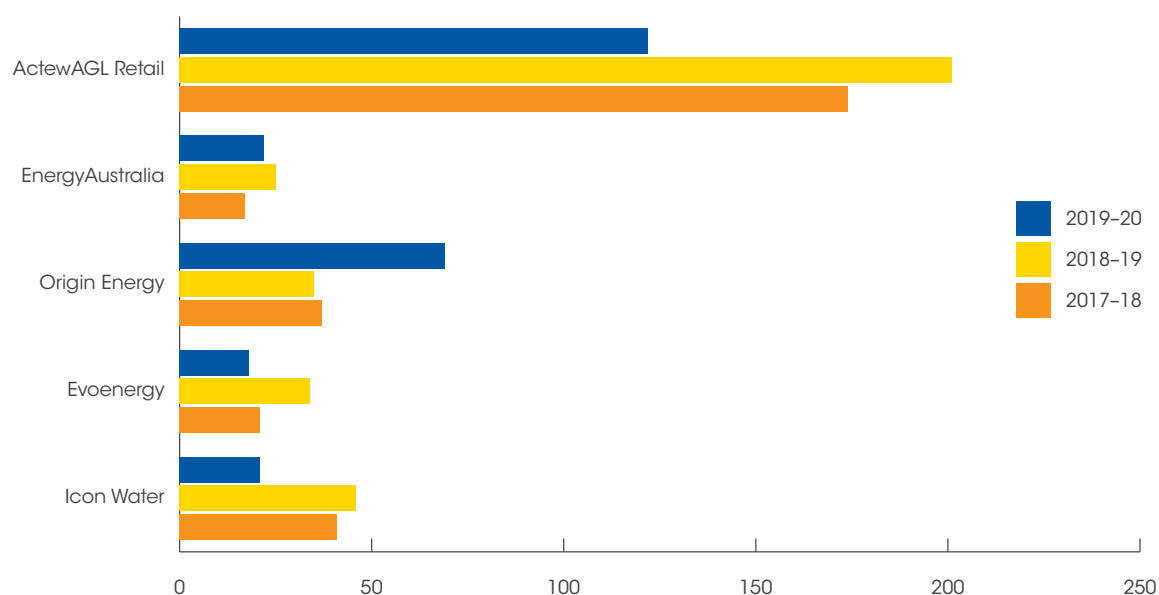
EnergyAustralia complaints remained similar in 2019–20 to those recorded in the previous year.

Origin Energy was the only retailer to record a percentage increase in complaints with an increase of almost 100% recorded. This increase was observed across both gas and electricity complaints, however the increase was from a relatively low starting base and may be an indication of Origin’s continued efforts to increase their retail market share in the ACT.

Complaints about Evoenergy, the sole energy distributor in the ACT, decreased by 47% in 2019–20 and were comparatively low overall considering Evoenergy’s central role in the energy market in the ACT.

Complaints about Icon Water, the sole water and sewerage utility in the ACT, decreased by 54% in 2019–20 compared with the previous year and were low overall. Icon Water’s billing and complaints is partly managed by ActewAGL Retail, so internal complaints handling changes in ActewAGL Retail are likely to be reflected in Icon Water’s outcomes.

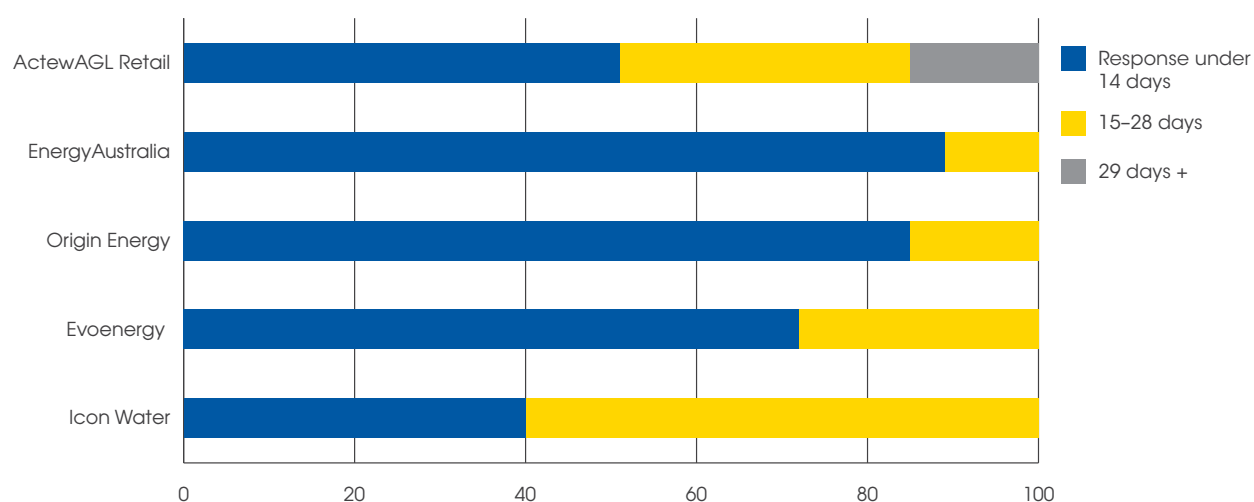
Table 4: New complaints by utility



	Icon Water	Evoenergy	Origin Energy	EnergyAustralia	ActewAGL Retail
2019-20	21	18	69	22	122
2018-19	46	34	35	25	201
2017-18	41	21	37	17	174

The ACAT EW has an expectation that utilities will provide a substantive response to a complaint which has been referred to them for investigation within 10 business days. Table 5 records the performance of each utility against this performance standard.

Table 5: Utility response times to investigations



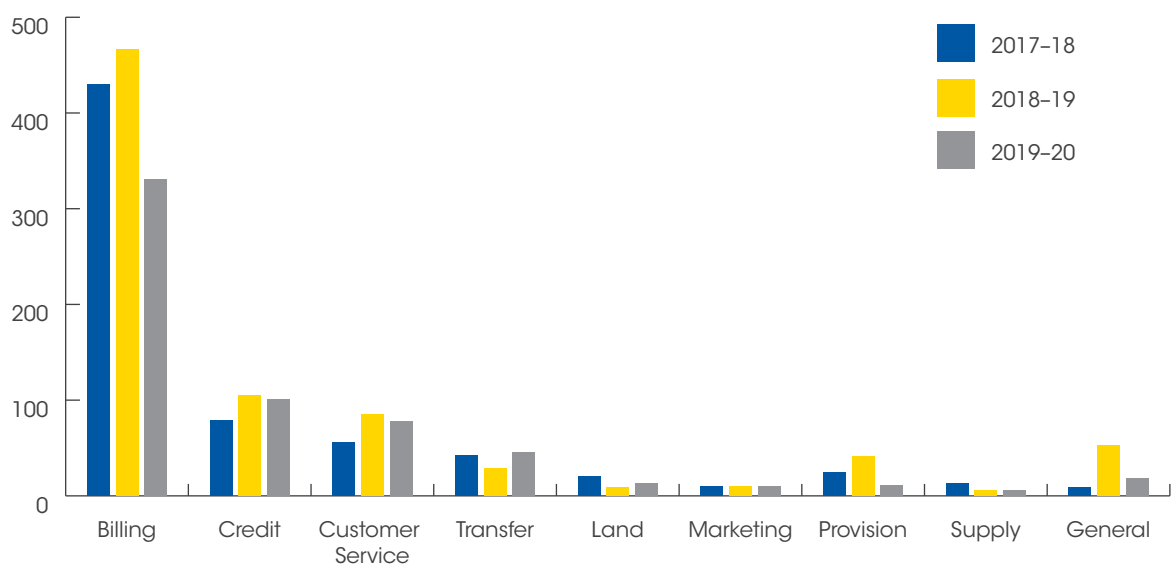
	Icon Water	Evoenergy	Origin Energy	EnergyAustralia	ActewAGL Retail
Response under 14 days	40%	72%	85%	89%	51%
15-28 days	60%	28%	15%	11%	34%
29 days +	0%	0%	0%	0%	15%

Complaint categories

The ACAT EW records complaints in nine general categories which are based on categories commonly used by energy and water ombudsman schemes in Australia. Each of these categories includes a range of related issues, for example credit includes debt collection, disconnection for debt, actions of debt collectors, and credit default listings.

As in previous years, the ACAT EW received more billing complaints in 2019-20 than any other complaint category, however it decreased slightly as a proportion of all complaints received. Complaints regarding credit and customer service remained high and continued to trend upward. The ACAT EW expects that credit issues may decrease slightly in the upcoming financial year as a result of changes implemented in response to COVID-19. The ACAT EW is concerned about the general upwards trend, especially given that a high proportion of the default listings complained about are non-compliant with the legislative scheme. Note that the credit category does not include hardship complaint applications under the ACAT EW's hardship assistance program; these are separately reported in this annual review.

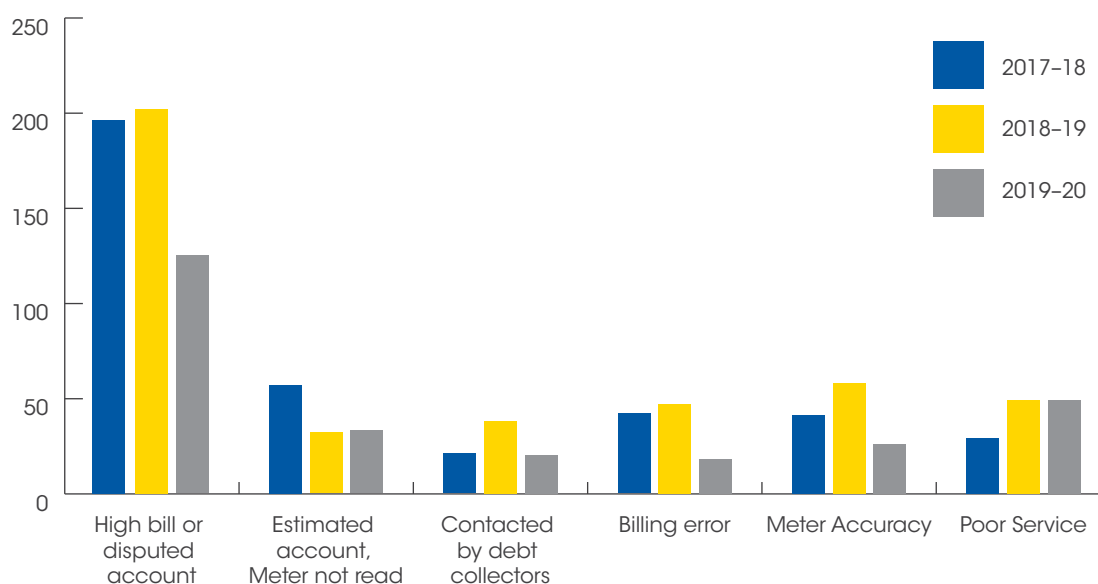
Table 6: Complaints by issues



	Billing	Credit	Customer Service	Transfer	Land	Marketing	Provision	Supply	General
2017-18	430	79	56	42	20	10	25	13	9
2018-19	466	105	85	29	9	10	41	6	53
2019-20	331	101	78	45	13	10	11	6	18

Table 7 records the issues most complained about in the 2019–2020 financial year and compares them with the issues listed for the previous financial year. In total, 613 issues were recorded for all matters including enquiries, RHLs and investigations. Consistent with previous financial years, high billing was the most recorded issue, representing 20% of the total 613 issues. In the 2018–19 financial year, 'Contacted by debt collectors' was in the top five most complained about issues, however this year 'Credit rating affected' has replaced it, with a total of 49 complaints compared with only 20 complaints about contact by debt collectors. The increase in these complaints may be a result of expanded credit collection activities by utilities to recover outstanding historical debts, but may also reflect an increase in the number of for-profit 'credit repair' agencies entering the national market. There was also a large increase in complaints regarding poor service – where complaints decreased by 26%, poor service as an issue remained steady, meaning it increased significantly in proportion to complaints as a whole. There also was an increased number of poor service complaints in the previous financial year.

Table 7: Type of issue most complained about



	High bill or disputed account	Estimated account, Meter not read	Contacted by debt collectors	Billing error	Meter Accuracy	Poor Service
2017-18	196	57	21	42	41	29
2018-19	202	32	38	47	58	49
2019-20	125	33	20	18	26	49

Table 8 is a detailed breakdown of complaint categories and issues, by utility. This Table records issues in relation to the total number of complaints, including enquiries, RHLs and investigations.

Table 8: All issues raised in complaints (including enquiries)

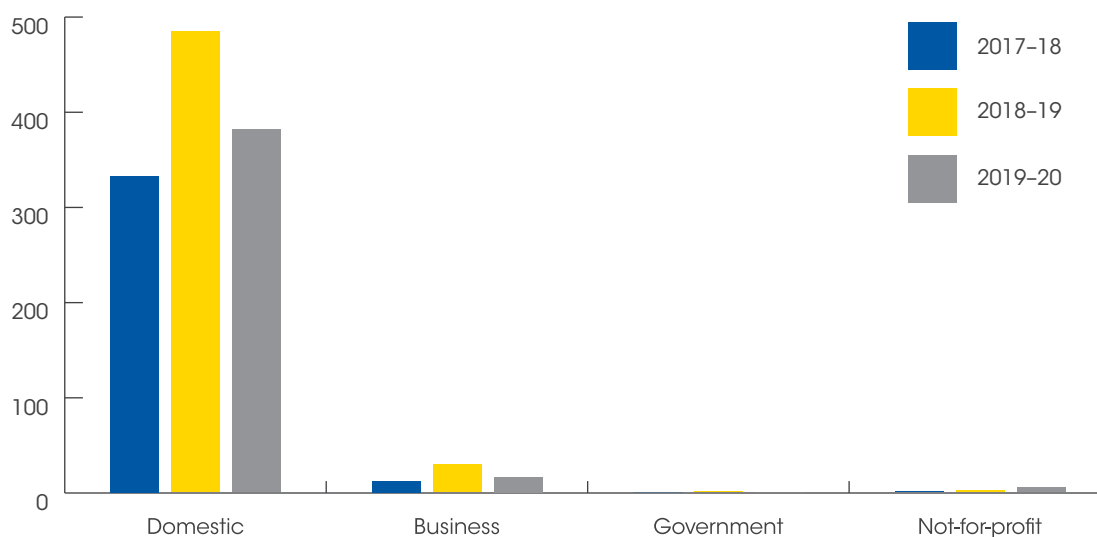
	Electricity Retailers			Gas Retailers			Water	Distribution		
	ActewAGL Retail	EnergyAustralia	Origin Energy	ActewAGL Retail	EnergyAustralia	Origin Energy	Icon Water	Evoenergy (Electricity)	Evoenergy (Gas)	Total
Billing										
High bill or disputed account	44	8	15	22	2	17	17			125
Tariff (time of use, prices)	9	1	4	1	1	0	1			17
Solar Credits	4	0	6	0		0	0			10
Billing error	3	2	6	3	0	3	1			18
Delayed bill or bill not received	1	1	5	7	2	0	1			17
Direct Debit/Even Pay	3	0	1	2	0	1				7
Fees and charges	3	0	6	2	0	0	4			15
Estimated account, meter not read	9	2	3	7	2	9	1			33
Backbilling	6	1	2	7	0	0	1			17
Delay in issuing refund or refund not received	0	1	1	0	1	1	0			4
Meter accuracy or fault	12	1	4	4	0	3	2			26
Debt transferred from another account	0	0	1	0	0	0	0			1
Common hot water system issue		0	0	9	0	3	0			12
Dear Customer	0	0	1	1	0	0	0			2
Concessions	0	0	15	0	0	0	0			15
Other	3	2	3	1	1	1	1			12
Category Total	97	19	73	66	9	38	29			331
Credit										Total Billing % 54.00%
Facing disconnection due to non-payment	0	0	15	1	0	0	0			16
Disconnected/Restricted due to non-payment	0	0	5	1	0	1	0			7
Contacted by debt collectors	6	0	3	5	1	1	4			20
Credit rating affected	30	1	3	12	0	3	0			49
Payment difficulties	0	0	0	0	0	0	2			2
Arrears requiring ACAT protection (hardship)	2	0	0	0	0	0	0			2
Arrears requiring payment plan	0	2	2	0	1	0	0			5
Category Total	38	3	28	19	2	5	6			101
Customer service										Total Credit % 16.48%
Poor service	19	1	5	8	2	11	2	0	1	49
Failed to respond	2	0	5	5	1	0	1	0	0	14
Incorrect advice or information provided	1	1	6	0	0	1	3	0	0	12
Privacy concern or breach	1	1	0	0	0	0	1	0	0	3
Category Total	23	3	16	13	3	12	7	0	1	78
Transfer										Total Customer Service % 12.72%
Contract (eg variation, fees)	1	0	0	0	0	0		0	0	1
Transferred without consent	3	0	2	1	0	3		0	0	9
Site ownership issues	2	1	3	2	1	0		0	0	9
Transferred in error	2	0	2	1	0	0		0	0	5
Cooling cancellation not-actioned	0	0	1	0	0	0		0	0	1

Delay in issuing bill after transfer	0	2	0	1	1	0		0	0	4		
Billing problems on transfer	1	1	3	2	0	3		1	0	11		
Request for new account/transfer rejected	0	1	0	0	0	0		0	0	1		
Other	2	0	1	0	0	1		0	0	4		
Category Total	11	5	12	7	2	7	0	1	0	45		
Land	Total Transfer %								7.34%			
easement (access, other)								0	0	0	0	
vegetation management								0	1	0		
network assets (health & safety, maintenance, placement)								3	3	2	8	
other (general, property damage/restoration)								3	1	0	4	
Category Total								6	5	2	13	
Marketing	Total Marketing %								2.12%			
information	0	0	0	0	0	0	0			0		
misleading	0	0	0	0	0	0	0			0		
non account holder	1	0	0	0	0	0	0			1		
other	2	0	2	1	0	0	2			7		
pressure sales	0	1	0	0	0	1	0			2		
Category Total	3	1	2	1	0	1	2	0	0	10		
Provision	Total Land %								1.63%			
Common hot water system										1	1	
disconnection/restriction (error, meter access, safety/defect)								0	0	0	0	
existing connection (de-energisation, energisation/connection, interference, meter removal, repair, safety, supply upgrade, other)								0	4	2	6	
solar – network connection issues										2	0	2
new connection (capital contribution, delay, information, other)								0	0	0	0	
restriction (error, meter access, safety/defect)								0	1	1	2	
Category Total								0	7	4	11	
Supply	Total Provision %								1.79%			
off supply–planned (damage/loss, duration, frequency, health & safety, inconvenience, information/notice, other)								0	1	0	1	
off supply–unplanned (damage/loss, delivery delay, duration, frequency, health & safety, inconvenience, information/notice, loadshed)								0	4	0	4	
quality (colour, health/safety, pressure, taste/odour, other)								0			0	
sewer/stormwater overflow/blockage								0			0	
variation (damage/loss, frequency, health & safety, inconvenience, information)								1	0	0	1	
Category Total								1	5	0	6	
General Enquiry	Total Supply %								0.98%			
energy/water – non complaint enquiry	0	0	0	0	0	0	0	0	0	0		
energy/water – out of jurisdiction or non utility	1	0	0	0	0	0	0	0	0	1		
not a licensed utility											0	
Category Total	1	0	0	0	0	0	0	0	0	1		
Total General Enquiry %								2.94%				
Retailer Total	173	31	131	106	16	63	51	18	7	596		

Complaint clients

Tables 9, 10 and 11 give a profile of the ACAT EW client base: customer type, gender and location respectively. These Tables record the client profile of the total number of complainants, including enquiries, RHLs and investigations.

Table 9: Types of clients



	Domestic	Business	Government	Not-for-profit
2017-18	332	12	0	1
2018-19	484	29	1	2
2019-20	381	16	0	5

Table 10: Gender of clients

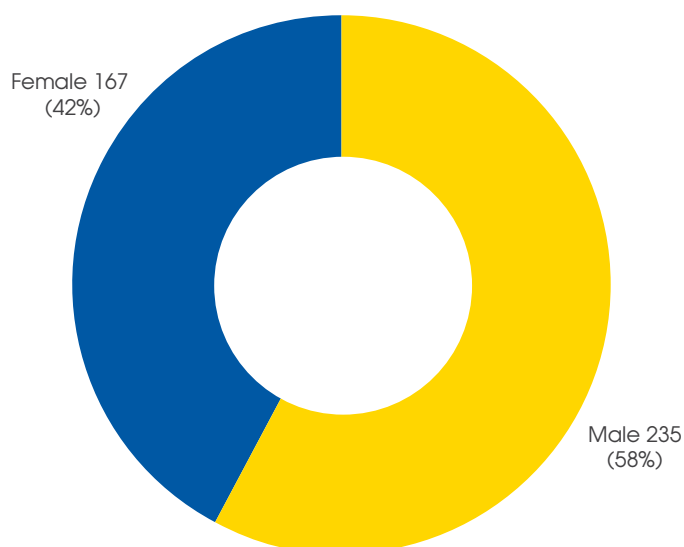
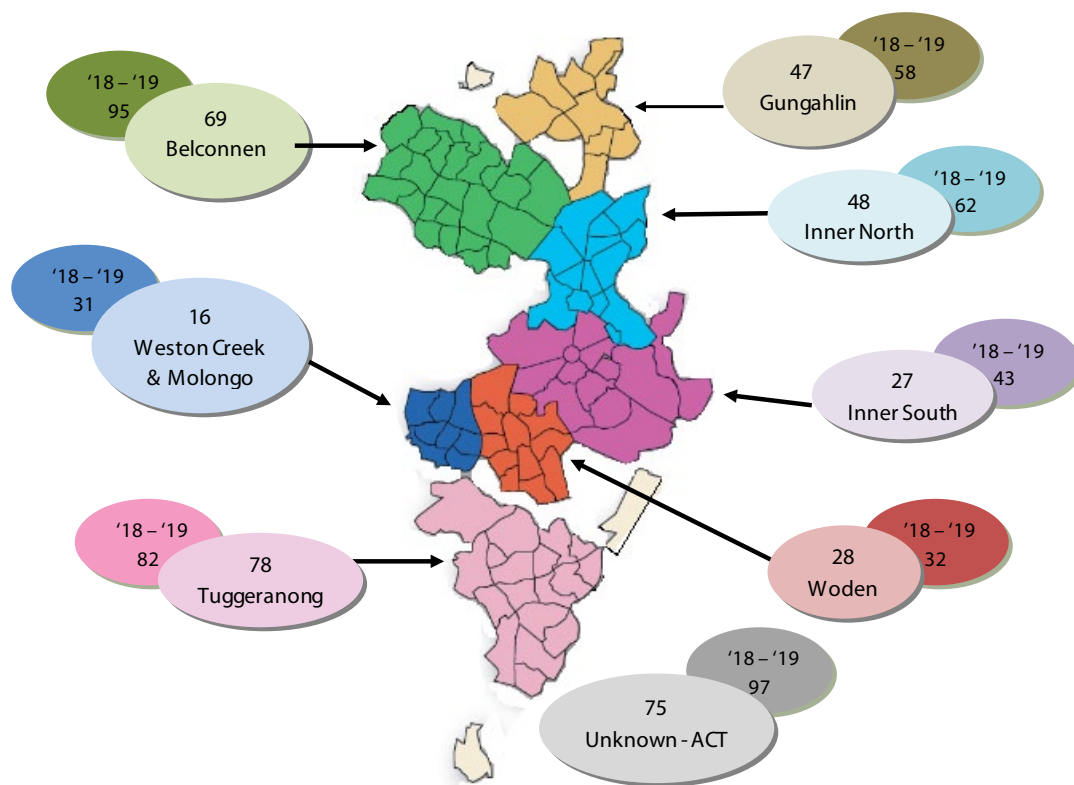


Table 11: Client location in ACT



Note: Other ACT includes complaints outside the identified areas or unknown but in the ACT. Unknown but in the ACT is generally recorded when a customer makes an enquiry and does not provide their address. Known interstate complaints or complaints that cannot be identified as from the ACT are excluded.

Complaint Outcomes

In the 2019–2020 financial year, 278 complaint applications were closed. This was a 22% decrease from the 2018–2019 financial year where 358 complaints were closed.

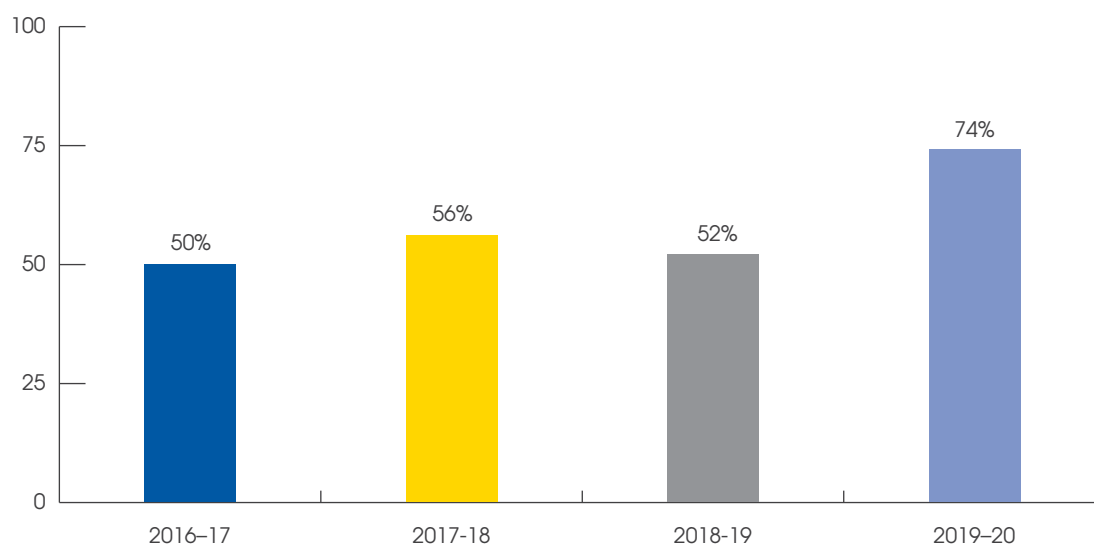
During the reporting period, 167 complaints were closed after being referred to the utility by an RHL. This represented the majority of complaint closures, however this figure does not indicate the number of referrals that were successfully resolved. A customer may not be satisfied with the response of the utility but decide not to come back to the ACAT EW for further investigation. Table 12 provides data on the outcome of RHLs, essentially showing the number and proportion of complaints closed as a result of RHL which did not come back to the ACAT EW for investigation.

Outcome of RHLs

In the 2019–2020 financial year, of the 167 complaint applications referred to a higher level within the utility, 74% were closed at this stage without the need for further ACAT investigation. In 2018–19, the comparable proportion was 52%.

The ACAT EW initially refers the majority of complaints to utilities as RHLs to ensure the utility has had a reasonable opportunity to resolve their customer's concerns, with minimal external involvement. The ACAT EW encourages utilities to use this process to re-connect with their customer, resolve the issue, and restore the relationship, which is generally beneficial to all parties. The increased closure rate in 2019-20 suggests that utility/consumer relationships may be improving, and that utilities are actively working to reach a resolution when a complaint is referred to them via the RHL process. The increased number of complaints in relation to Origin Energy may also be a factor, as Origin Energy has a high resolution rate generally. Additionally, it appears that Origin Energy often makes commercial decisions to quickly resolve consumer complaints.

Table 12: Percentage of complaints successfully resolved following an assisted referral (RHL) to utility



	2016-2017	2017-2018	2018-2019	2019-2020
Closed on referral to RHL	50	n/a	222	167
Not resolved following RHL and opened as an investigation	n/a	n/a	106	44
Complaint resolved following RHL stage	50	n/a	116	123

Outcome of investigations

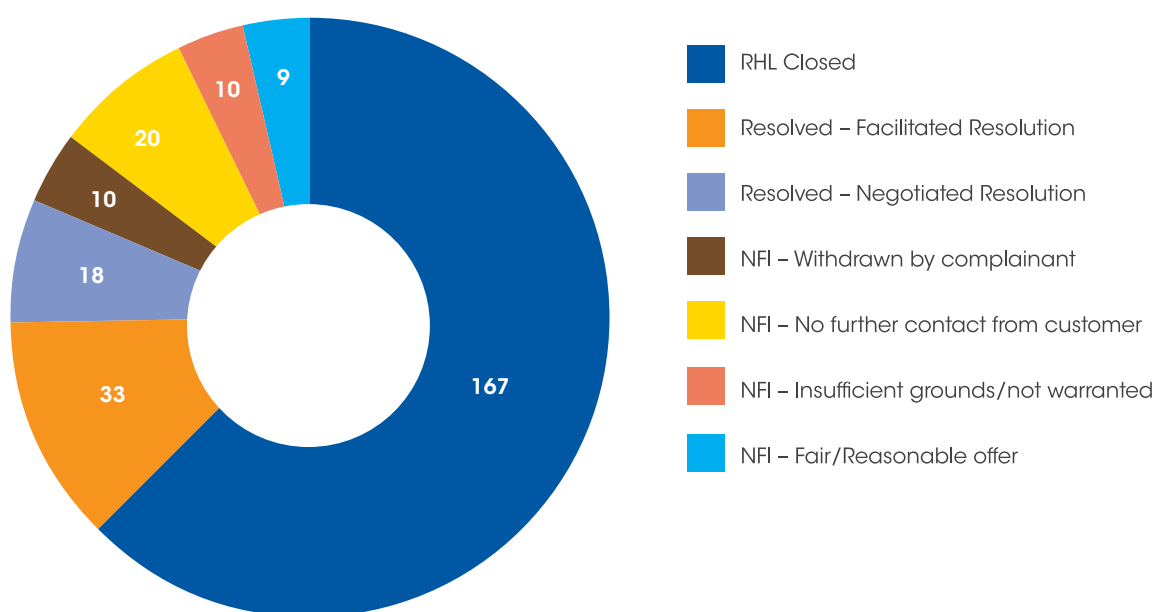
During the 2019-2020 financial year, 111 (40%) complaints were closed following investigations or hearings:

- 51 (46%) complaints were closed through the ACAT EW facilitating a resolution between the parties or by the ACAT EW actively negotiating a resolution.
- 30 (27%) complaints were closed due to clients abandoning or withdrawing their application.
- 10 (9%) complaints were closed due to the ACAT EW reviewing the complaint and identifying that the complainant had no grounds, and the customer did not proceed further in the process.

- 9 (8%) complaints were closed when the ACAT EW formed the opinion that the utility's offer was fair and reasonable, and the customer did not proceed further in the process.
- 11 (10%) complaints were closed after the tribunal convened a conference or hearing, which usually resulted in orders binding on the parties.

Note: If the tribunal forms the view that the complaint has no grounds or the utility's offer is fair and reasonable, this is not binding on the parties and the applicant can still choose to proceed to a formal tribunal hearing.

Table 13: Outcome of total complaints (excluding formal tribunal processes)



Reported Systemic Issues

Section 174 of the *Utilities Act 2000* requires the ACAT to report issues of a systemic nature to the Minister (the Attorney-General) and to the Independent Competition and Regulatory Commission (ICRC). In the 2019–2020 financial year, the ACAT reported no systemic issues under section 174.

Other issues and concerns

Credit default listings

The ACAT EW closed 34 complaints regarding utility-applied default listings during 2019–20. A default remains on a person's credit file for a period of five years and can have a negative impact on a person's ability to obtain credit for such things as a home loan or a mobile phone plan. Due to the potential adverse financial outcomes for customers arising from default listings, great care should be taken by utilities to ensure they have been applied correctly.

Table 14: Outcome of default listing complaints

	ActewAGL Retail	Energy Australia	Origin Energy	Total
Defaults challenged by customers	31	1	2	34
Defaults removed for goodwill	3	0	0	3
Defaults removed for compliance concerns	9	1	2	12
Total defaults removed	12	1	2	15
Percentage of defaults removed	39%	100%	100%	44%

Of those 34 complaints about default listings, one related to Energy Australia, two related to Origin Energy, and 31 related to ActewAGL Retail.

Of the 31 default listing complaints for ActewAGL Retail, 3 default listings were removed as goodwill gestures, and nine were removed due to concerns regarding their compliance with the legislative scheme. A further default was considered to be non-compliant after a hearing (see *Eighani v Icon Retail Investments Limited and AGL ACT Retail Investments Pty Ltd Trading as ActewAGL Retail* (Energy and Water) [2020] ACAT 39). That decision is under appeal.

Decisions by ActewAGL to remove a default credit listing occurred either by adoption of a recommendation by the ACAT EW or by further internal review by the utility. The majority of these complaints had already been internally reviewed by ActewAGL Retail before they were received by the ACAT EW. Due to the number of default listings being removed by ActewAGL Retail, there is a concern as to whether enough care is being taken in ensuring the necessary steps are being followed by ActewAGL Retail or their collection agents prior to a customer being listed with a credit reporting agency.

The ACAT notes Origin Energy's percentage was high, but this does not appear to be a trend as the factual scenarios in each complaint are not similar. Nonetheless, the ACAT EW will focus on monitoring the continuing issues with credit default listing during 2020–2021 and will work with the Office of Australian Information Commissioner if necessary.

Undetected Leak Rebate

The ACAT EW noted an increase in the number of complaints about Icon Water's Undetected Leak Rebate policy. A number of customers complained about some of the eligibility restrictions and the maximum amount of rebate payable. The ACAT EW was concerned that a number of complainants were "slipping through the cracks" because of rigidity in the policy, and that the maximum rebate of \$2,500 had not been increased for more than 10 years. The ACAT EW wrote to the Managing Director of Icon Water to raise these concerns. Icon Water advised that they would undertake a review of the policy.

As a result of Icon's review, a number of changes were implemented beginning on 1 July 2020 including:

- The maximum amount of the rebate will remain at \$2,500, which Icon Water advised was more generous than their industry peers, most of whom use an adjustment of 50% of the excess with no cap;
- All remaining excess consumption to be recalculated at the Tier 1 price (\$2.46/kL) rather than the Tier 2 price (\$4.94/kL);
- A provision for the flexibility to waive eligibility criteria or approve a second and subsequent undetected leak adjustment in special circumstances, such as a disability that prevents a customer from taking reasonable action to identify and/or repair a leak or financial hardship situations.

The ACAT EW considers this to be a highly positive outcome.

Meter Installation Delays

The Australian Energy Commission (AER) requested information on complaints that related to meter installation delays following the Power of Choice amendments in December 2017. The ACAT EW reported a total of four complaints to the AER where customers had experienced significant delays in having a meter installed and/or repaired. The ACAT EW will continue reporting these delays to the AER throughout 2020–21.

Response to COVID-19

On 27 March 2020 the AER released a Statement of Expectations of energy businesses, which set out ten principles that they expected businesses to adhere to during the COVID-19 crisis, to the maximum extent possible. The aim of this was to ensure the continued safe and reliable supply of energy to homes and businesses, and to help those who would be affected by the crisis.

Elements of this Statement included:

- Customers who can pay their bills to continue doing so.
- All residential and small business customers who indicate they may be in financial stress to be offered a payment plan or hardship arrangement, regardless of whether they meet the 'usual' criteria.
- A cease on disconnections for residential, small business, and certain large business customers, without their agreement, before 31 July 2020, and potentially beyond.
- Modification of existing payment plans if a customer's changed circumstances necessitate it.
- Waive disconnection, reconnection and/or contract break fees for small businesses that have ceased operation, along with daily supply charges, during any period of disconnection until at least 31 July 2020, and potentially well into the next financial year.
- Minimise the frequency and duration of planned outages for critical works and provide as much notice as possible.

These changes resulted in a decrease in the number of hardship assistance and complaint applications. The ACAT EW anticipates a significant increase in both hardship assistance applications and complaint applications following the rollback of the AER protections, combined with the end of the winter period. The ACAT EW expects that this year's winter period will give rise to more complaints of high bills than is usually seen due to the amount of time customers and their families are spending at home due to COVID-19 restrictions.

Other activities

Working with other Ombudsman schemes

ACAT EW is a member of the Australian and New Zealand Energy and Water Ombudsman Network (ANZEWON), represented by the ACAT President. ANZEWON membership allows the ACAT EW to expand its expertise in the energy and water jurisdiction and where possible, provide a service which is consistent with other ombudsman schemes.

The President attended biannual ANZEWON meetings in November 2019 and April 2020.

Reports, submissions and information

During the 2019–2020 financial year, the ACAT EW:

- Met with the Independent Competition and Regulatory Commission (ICRC) regarding its review of the Consumer Protection Code (CPC) and prepared a Submission to the Review. The CPC is an ACT industry code that sets out practices, standards, and other matters about the provision of a utility service. It applies primarily to water/sewerage services in the ACT, however it also specifies guaranteed service levels expected for both water and energy utilities. The new *Consumer Protection Code 2020* commenced on 1 July 2020.
- Submitted a response to the ICRC Issues Paper “Standing Offer Prices for the supply of Electricity to Small Customers from 1 July 2020” and to the ICRC Draft Reports “Retail Electricity Price Investigation 2020–24” and “Proposed Price Direction”.
- Submitted a response to the Australian Energy Market Commission (AEMC) Annual Retail Competition Review and provided further hardship data on request.
- Submitted a response to the Australian Energy Market Operator (AEMO) “Customer Switching in the NEM” Rule Consultation Paper.
- Reported to the AER instances where it appeared retailers had not met timeframes for the installation and repair of meters for small customers.
- Made a detailed submission to the ACT Government Discussion Paper “ACT Sustainable Energy Policy 2020–2025”.
- Submitted a response to the AER “Tindo Energy Pty Ltd Application for Individual Exemption”.
- Submitted a response to Treasury in relation to Consumer Data Right – energy sector designation instrument.
- Provided a response to the ACCC Clean Energy Council in relation to the Solar Retailer Code of Conduct Reauthorisation.

Participation with industry and community

During the 2019–2020 financial year, the ACAT EW:

- Participated in AER tri-annual Ombudsman teleconferences.
- Provided quarterly reports to ANZEWON.
- Met regularly with representatives of ActewAGL Retail prior to the COVID-19 restrictions.
- Commenced monthly reporting to the AER during the COVID-19 pandemic.
- Participated in monthly Stakeholder videoconference meetings convened by ActewAGL Retail for discussion of hardship issues arising from COVID-19.
- Wrote to Barnardos ACT suggesting a review of their policy in relation to utility bills in shared occupancies, following a Hardship application that revealed a systemic problem with their existing utility billing arrangements.

