



2017–18

Annual Review



ACAT

AUSTRALIAN CAPITAL TERRITORY
CIVIL & ADMINISTRATIVE TRIBUNAL



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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
- discrimination complaints
- guardianship, financial management and enduring powers of attorney
- mental health treatment and care
- residential tenancies disputes
- energy and water hardship and complaints/investigations
- civil disputes valued at under \$25,000
- unit titles and retirement villages disputes
- liquor licensing
- compliance with some long service leave obligations
- 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 54 members of the ACAT. They are supported by a registry of 28 staff, employed by the ACT Government under the Justice and Community Safety Directorate.

ABOUT THIS REVIEW

Each year, the ACAT publishes a review of its activities, achievements and challenges. This report covers the tribunal's ninth full year of operation. Reports on 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 2017–18. This annual review provides more detailed information about the tribunal's case workload and outcomes in the 2017–18 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 2017–18, Graeme Neate AM continued in his full-time appointment as ACAT President. Presidential Members Geoffrey McCarthy and Mary-Therese Daniel and Senior Member Heid Robinson continued in their full-time appointments, while Presidential Member Elizabeth Symons continued in a half-time capacity.

In addition, the tribunal had 43 sessional, non-presidential members at the beginning of the reporting period. A recruitment process for additional sessional ordinary members was undertaken during the reporting period. A separate selection process was undertaken to recruit two sessional senior members, both of whom are psychiatrists. There were seven new appointments in the reporting period (two senior members and five ordinary members), and one ordinary member appointment expired in the reporting period. At the end of the reporting period there were 49 sessional non-presidential members.

The names of all members during some or all of 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:

- 11 of 2016, effective from 1 November 2016
- 19 of 2017, effective from 1 November 2017.

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

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. Their work is valued, and the presidential members and staff of the tribunal acknowledge them.

ACAT members, along with their appointment and appointment periods, during 2017-18 were:

Presidential Members		
NEATE Graeme	President	2 January 2017 to 2 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 2019
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

Sessional Senior Members

ANFORTH Allan
BEACROFT Laura
BIGINELL Nigel
BOYLE Alysoun
BRENNAN Mary
BRODRICK Frank
BYRNE Donald
CORBY Wilhelmena
CREYKE Robin
DAVEY Adrian
DONOHUE Louise
DREW Leslie
FAUNCE Thomas
FERGUSON Elspeth
FOLEY Anthony James
HERRICK Stephen
HUGHSON Bernard
LENNARD Jann
LOVELL Denis
LUBBE Katherine (from 13 June 2018)
LUNNEY Graeme
MATHESON Marie
MEAGHER Bryan
NORRIE Peter (from 13 June 2018)
ORR Robert
PEGNUM Roger
QUAID Jack
SINCLAIR Michael
SPENDER Peta
SUTHERLAND Peter
TRICKETT Graeme
WILLIAMS Leanne

Sessional Ordinary Members

DAVIES Robyn
DELAHUNT Anne-Marie
GREAGG Jane
LANCKEN Stephen (from 3 January 2018)
LUCAS Dianne
MAYES Leasa
MORRIS Athol
MULLIGAN Dominic (from 3 January 2018)
MURRAY Moira (from 21 July 2017 to 20 January 2018)
NEWMARCH Eileen
PEARCY William
STEEPER Elizabeth
TRICKETT Elizabeth (from 3 January 2018)
VASSAROTTI Rebecca
WARWICK Theresa (from 21 July 2017)
WEDGWOOD Robert
WILLIAMS Athol
WRIGHT Graham

ACHIEVEMENTS ACKNOWLEDGED

Two ACAT members (one former and one current) were recognised through the award of an Order of Australia, for their outstanding contributions to their communities, in the 2018 Queen's Birthday Honours:

- Linda Crebbin, former ACAT President was made a Member (AM) in the general division of the Order of Australia for significant service to the law and to the legal profession in the ACT.
- Senior Member Robyn Creyke was made an Officer (AO) in the general division of the Order of Australia for distinguished service to administrative law, and to education, as an academic and author, to public administration and tribunal practice, and to professional bodies.

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, Principal Registrar, Registrar and Deputy Registrar, supported by the Senior Manager, Administration 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

During the reporting period the ACAT continued to work to its Strategic Statement to guide the tribunal for three years. The strategic statement sets out the purpose of the tribunal, its values and behaviours, and priorities and goals for the next three years. The strategic statement is included on the [ACAT website](#).

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 are:

- **Dispute resolution:** including by continuing to develop high quality formal and informal dispute resolution processes, strengthening engagement with stakeholders and developing effective information for ACAT users.
- **Ensure the ACAT is a productive, attractive place to work for members and registry staff:** including by developing training for staff and members, and continuing to build a collaborative, collegiate culture.
- **Support services and registry:** including by working to develop governance around the ACAT's budget, effective implementation of the Integrated Courts Management System (ICMS), upgrading the [ACAT website](#) and future appropriate ACAT accommodation.

Some ways in which ACAT leadership promote tribunal improvement are noted below under *Professionalism and integrity*.

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 regulatory work areas are 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.

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

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, hearing dates and times, and tribunal decisions.

To improve accessibility, the ACAT continued the project commenced in 2016–17 to redesign the ACAT website architecture and to create a website that assists tribunal users to better access ACAT information and services. Work to finalise the architecture and to develop new content will continue into 2018–19.

ACAT ACCOMMODATION

Consultations with government continued during the reporting period in relation to the ACAT's future accommodation needs. Government committed to update the functional design brief developed by Project Control Group Pty Ltd in December 2016 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 obtain legal advice, warm referral processes were developed with the ACT Legal Aid Office. Under this scheme, ACAT Registry staff are able to obtain the permission of a client to provide their contact and application details to the ACT Legal Aid Office, who contact the client to discuss their case. During the reporting period, four matters were referred by the ACAT under this program for administrative review, civil and residential tenancies disputes. Warm referrals of different matters were also made to the ACT Tenants Union and Canberra Community Law.

MENTAL HEALTH AND GUARDIANSHIP HEARINGS AT HOSPITALS

The tribunal continued holding hearings of some mental health matters each Monday and Thursday at The Canberra Hospital Adult Mental Health Unit and at, or by video link to, Calvary Hospital. Other hearings are at the tribunal premises.

In November 2017, the tribunal began guardianship hearings at The Canberra Hospital and Calvary Hospital for subject persons who are 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.

The hospital guardianship hearings have produced many important benefits. As at 30 June 2018, attendance rates for the proposed protected persons have increased from approximately 34% to approximately 95%. The attendance of the subject person greatly improves the value and effectiveness of the hearing. The period between lodgement of a completed application and the hearing has fallen from approximately 40 days to approximately 16 days. This has often enabled earlier discharge of the subject person and, consequentially, very significant savings to each hospital's costs.

ACCESS TO INTERPRETERS FOR TRIBUNAL USERS

During the reporting period the ACAT received representations from the Human Rights Commissioner and the Federation of Ethnic Communities Councils of Australia (FECCA) about the lack of provision by the ACAT of interpreters to parties with limited English. Both organisations saw this as potentially limiting a party's right to a fair hearing and their right to equal protection of the law without discrimination. In response to these representations, funding was sought from and subsequently approved by Government. From 2018–19, the ACAT will fund 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 information for clients are being developed for launching in 2018–19.

ACAT SECURITY PROJECT

During 2017–18, work continued on the ACAT Security Project. That project arose from a 2016 risk assessment of the ACAT which identified a number of issues for staff and members, primarily in relation to managing vulnerable clients. A suite of procedures and protocols was developed to assist staff and members with the management of interactions with clients of the ACAT, to build security awareness, safety and to assist in the daily management of security incidents at the ACAT. The team sought advice from tribunals in other Australian states and territories, and experts from within the ACT Government to develop a standard operating procedure and fact sheets to assist members and staff to identify potential threats and to respond appropriately to security issues as they arise.

The development of a security culture within the ACAT has been the result, with improved awareness of the ACAT operating environment, identification of and planning for potential security threats and issues. There has also been improved incident reporting and de-briefing to protect staff, member and client well-being. Training for staff and members is now under development and will be delivered during 2018–19.

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 TRAINING

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 a statutory functions and, by participating in national and other bodies, representatives of the tribunal sought to assist other tribunals.

The COAT *Practice Manual for Tribunals* (Fourth Edition) is provided as a resource for new members. Development of an induction manual for new members was also commenced during the reporting period.

Training in dealing with vexatious litigants, to be delivered by Dr Grant Lester, was planned for delivery to members in early 2018–19.

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

Seven members and staff, either conference conveners or accredited mediators, attended a High Conflict Mediation – Micro-skills workshop delivered by the Conflict Resolution Service in October 2017. The workshop covered effective communication strategies when working with people whose behaviour is high conflict.

During 2017–18, some ACAT members participated in the following conferences as attendees or speakers:

- Australian Institute of Administrative Law (AIAL) National Administrative Law 2017 conference
- Resolution Institute (ACT Chapter) Annual General Meeting and Seminar 2017
- ACT Bar Association Advocacy Panel Mini-conference 2018
- Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT) 2018
- Australia and New Zealand Ombudsman Association (ANZOA) conference 2018
- Australasian Institute of Judicial Administration (AIJA) Conference 2018: Forces of Changes: Defining Future Justice
- Council of Australasian Tribunals (COAT) National Conference 2018.

MEMBER GUIDELINES: *WRITTEN AND ORAL DECISIONS OF ACAT*

During 2017-18, ACAT Presidential Members issued guidelines for Members around the timing of delivery of reasons for decision, whether reasons should be delivered orally or in writing, determining the content of reasons and deciding whether written reasons should be published. The guidelines considered an appropriate balance between competing public and private interests such as efficiency, informality, accessibility, timeliness, open and transparent hearing, and enhancing the parties' and public confidence in the legal system.

COMMUNICATION WITH MEMBERS

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

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.

The President or his nominee presidential member participates in bi-annual meetings of the Australian Guardianship and Administration Council and of heads of tribunals relating to health practitioners, mental health matters and guardianship matters. The President participates in meetings of the Australian and New Zealand Energy and Water Ombudsman Network (ANZEWO) and attended ANZEWO meetings in Melbourne and Wellington, New Zealand during 2017-18.

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 other 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, problem solving and meet regularly to talk about innovative work being undertaken across all jurisdictions.

PARTICIPATION IN ACT WORK

President Neate participated in monthly meetings of the ACT Joint Rules Advisory Committee, and was a member Steering Committee for the review of Russell Fox Library. The ACAT 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).

STAFF TRAINING

The ACAT Registrar and Senior Manager attended the COAT Registrar and Executive Officers Conference, and all ACAT Registry staff attended specialised Behaviour De-escalation training developed for the ACT Courts and Tribunal. ACT Legal Aid and the Tenants Union attended ACAT staff meetings and made presentations on their work to assist the Registry team to provide accurate assistance to Tribunal users on the work of those organisations.

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.

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](#).

On 1 February 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.

STUDENTS AND INTERNS

The tribunal continued its engagement with law students at the Australian National University and Canberra University by offering observation opportunities, internships of between 10 and 20 days duration, and research projects. Twenty interns attended ACAT during 2017-18. 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.

ACAT SUBMISSION TO ACT LAW REFORM ADVISORY COUNCIL ISSUES PAPER: CANBERRA – BECOMING A RESTORATIVE CITY

The ACAT provided a submission to the ACT Law Reform Advisory Council's (LRAC) issues paper about the potential to expand the use of restorative justice in the ACT.

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 and Human Rights Act 2004* proposed amendments
- Animal Diseases Amendment Bill 2018
- *Competition and Consumer Act 2010* proposed amendments
- Compulsory Third-Party Insurance proposed amendments
- Courts and Other Justice Legislation Amendment Bill 2018
- Electricity Feed-in (Large-scale Renewable Energy Generation) Amendment Bill 2017
- Integrity Commission Bill 2018
- Magistrates Court (Retirement Age of Magistrates) Amendment Bill 2018
- Residential Tenancies Amendment Bill 2018
- Residential Tenancies Amendment Bill 2018 (No 2)
- Retirement Villages Amendment Bill 2018
- Senior Practitioner Bill 2018
- *Utilities Act 2000*
- Veterinary Practitioners Bill 2018

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 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 perspective.

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, but can occur at any stage of a matter where this is requested and is considered by the tribunal to be an appropriate allocation of resources.

A number of tribunal members are accredited mediators. Fourteen members and two 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 or undertake assessments of quantum 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.

INTEGRATED COURTS MANAGEMENT SYSTEM

ICMS has been used in managing 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. Development work is currently underway to enable energy and water cases to be managed under ICMS and also for a civil disputes online. Both are expected to be implemented during 2018–19.

RESERVED DECISION PROTOCOL

During the reporting period, Presidential Members agreed that the benchmark timeframe for the delivery of Tribunal decisions is three months from the date a decision is reserved. A protocol has been developed to guide inquiries from parties about delays in the delivery of a decision. Both the ACT Bar Association and the ACT Law Society were consulted on the development of the protocol and both support its adoption.

ACAT JURISDICTIONAL CHANGES

Legislative changes implemented over the last year continue to increase or change ACAT's jurisdiction:

- Under the new *Freedom of Information Act 2016* which came into effect on 1 January 2018, the Ombudsman now has power to refer questions of law to ACAT for determination.
- In April 2018, the ACAT Regulations were amended to increase the maximum amount payable under an occupational disciplinary order to \$5,000 for an individual (from \$1,000) and \$25,000 for a Corporation (from \$5,000).
- The *Utilities Act 2000* was amended to increase the compensation limit for ACAT consideration of energy and water complaints to \$25,000.
- In August 2017, changes to the *Residential Tenancy Act 1997* came into effect to allow a protected person to seek orders from the ACAT to deal with a tenancy in circumstances where a protection order has been issued. The ACAT can terminate the existing residential tenancy agreement and order the lessor to enter into a new residential tenancy agreement with the protected person and any other person mentioned in the application. Twelve orders were made by the tribunal after the introduction of these provisions and before the end of the reporting period.

Some legislative amendments required changes to processes and communication with stakeholders.

RULING TRIBUNAL DECISION

A Ruling Tribunal to consider a question of law referred from within the Tribunal was convened under section 77 of the ACAT Act in February 2017. The question of law related to whether legal and other costs incurred by an owners corporation in pursuing the recovery of unpaid unit title levies can be recovered in proceedings before the ACAT as 'expenses' under section 31 of the *Unit Titles (Management) Act 2011*.

The question of law affected 42 applications named in the schedule to the Ruling Tribunal decision as well as 117 others in which the same or similar issues arose which were held in abeyance pending the decision of the Ruling Tribunal.

The decision of the Ruling Tribunal was handed down in August 2017 and similar matters were dealt with in ten subsequent decisions of the Tribunal:

In The Matter of Ruling Tribunal Section 31 of The *Unit Titles (Management) Act 2011* (Civil Dispute) [2017] ACAT 56

The Owners – Units Plan No 3182 v Black & Anor [2018] ACAT 6

The Owners – Units Plan 3788 v Black & Anor [2018] ACAT 24

The Owners – Units Plan 638 v Carroll [2018] ACAT 25

The Owners Units Plan No 3609 v Chen [2018] ACAT 26

The Owners – Units Plan 546 v Donnelly & Anor [2018] ACAT 27

The Owners – Units Plan No 3802 v Ilhan [2018] ACAT 28

The Owners – Units Plan 371 v Nabua & Anor [2018] ACAT 29

The Owners – Units Plan 3492 v Robson & Anor [2018] ACAT 30

The Owners – Unit Plan No 1565 v Ruff [2018] ACAT 31

Rampala v The Owners – Units Plan 1003 [2018] ACAT 35

At the end of June 2018, 117 matters remained outstanding and 68 of these matters remained pending greater than 12 months. These figures have a significant effect on the total number of ACAT pending matters. The delays in finalising these matters have been due to the large number of applications and the degree of complexity involved in finalising decisions where matters of fact differed on a number of them. Delays were experienced with obtaining responses from parties about proceeding. The registry diverted special resources into the finalisation of these matters in order to process them in a timely matter. Action is underway to consider and decide outstanding matters with reference to the previous decisions.

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 Mental Health Round Table and Administrative Review and Occupational Regulation stakeholders meeting were hosted by the ACAT and were attended by a broad spectrum of tribunal stakeholders.

Presentations on the work of the ACAT were made by Presidential Member Daniel to the Environmental Defenders Office and by Senior Member Robinson and Registrar Soper to the Property Management Professional Group. Presidential Member McCarthy presented to medical practitioners at the Canberra Hospital on releasing elderly people from hospital and the role of a guardian. He also participated in an ACT Law Society's Elder Law Committee seminar about guardianship and elder abuse.

Meetings were held throughout the reporting period with a range of ACAT stakeholders including Capital Collections, ACT Tenants Union, ACT Housing, Canberra Community Law and the Office of Rental Bonds. Registrar Soper met with ACT Legal Aid's Cultural Liaison Officers.

Thank you

The diverse and demanding work of the tribunal draws 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.

The work of the tribunal is challenging and I hope that this annual review can inform us in our endeavours for the year ahead.

Graeme Neate

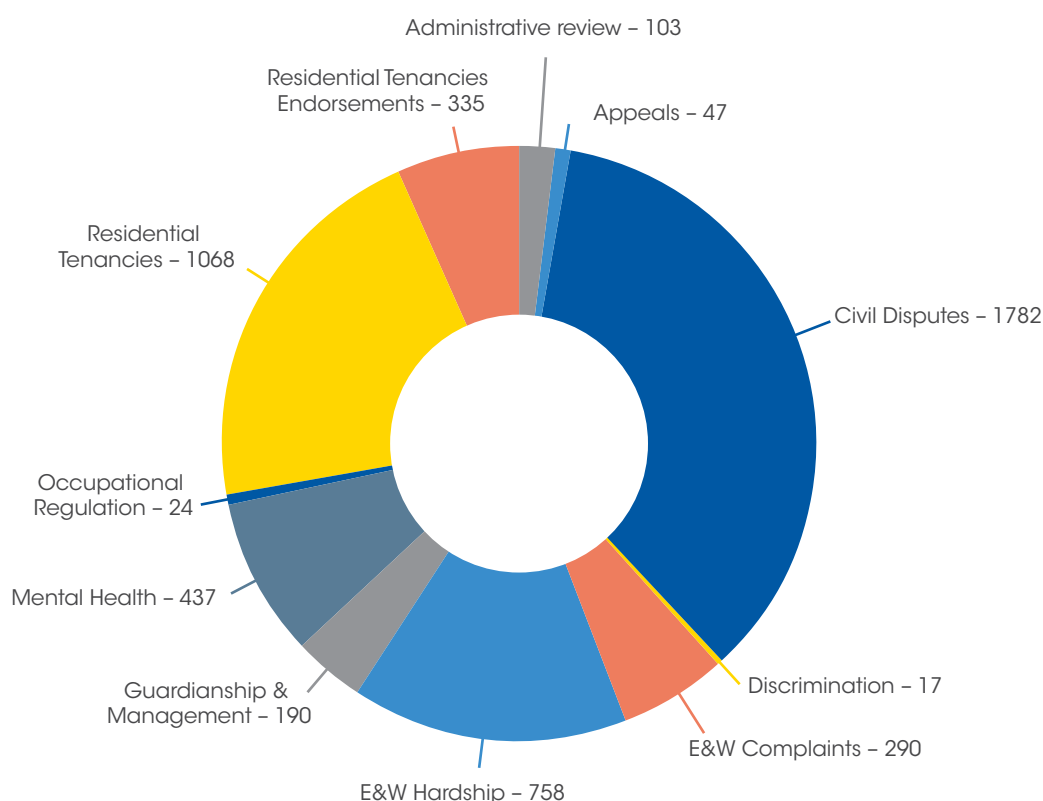
President

26 October 2018

Statistics and performance information

YEAR AT A GLANCE

New applications received by subject matter 2017-18



OVERALL WORKLOAD AND OUTCOMES

The number of new applications increased during the reporting period, with most work areas reporting stable numbers. Larger increases are evident in the Energy and Water Hardship and Complaints work areas and in Civil Disputes, most likely due to the increase of the jurisdictional limit for civil claims from \$10,000 to \$25,000 from 15 December 2016.

Pending matters over 12 months old increased in the reporting period due to the referral of questions of law to a ruling tribunal convened under section 77 of the ACAT Act. The questions of law affect 117 civil dispute applications under section 31 of the *Unit Titles (Management) Act 2001*, of which 68 are pending more than 12 months. Discounting these matters, the total pending matters aged greater than 12 months is 28, which is 0.55% of total lodgements.

	2013-14	2014-15	2015-16	2016-17	2017-18
Applications lodged*	5,730	5,535	4,794	4,587	5,051
Files finalised*	4,905	4,627	4,359	3,859	4,133
Applications pending#	1,021	1,025	1,056	979	1,178
Pending > 12 months#	10	28	23	94	96
Clearance rate#	102%	100%	104%	95%	94%
Reviews held^	2,246	2,509	2,363	1,987	2,090

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	2013-14	2014-15	2015-16	2016-17	2017-18
Mediation/Preliminary Conferences	1,257	1,294	1,465	1,106	1,102
Interim Hearings	176	130	149	194	199
Motions Hearings	289	296	319	130	145
Substantive Hearings (includes resumed hearing days)	5,616	6,428	6,522	4,737*	7,037

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, 47 applications for appeal were lodged with the tribunal and 57 applications were finalised.

Internal Appeals	2013-14	2014-15	2015-16	2016-17	2017-18
Applications lodged	55	56	61	52	47
Applications Finalised	46	58	54	60	57

Type of Appeals	2013-14	2014-15	2015-16	2016-17	2017-18
Civil Disputes	12	11	19	18	13
Residential Tenancies	23	19	26	17	23
Unit Titles	0	0	0	1	2
Occupational Regulation	2	3	4	1	0
Administrative Review	9	11	5	6	6
Discrimination	3	5	0	2	0
Mental Health	3	1	3	2	1
Guardianship	1	2	1	3	2
Energy and Water	2	1	1	2	0
Extension of Time	–	3	2	8	4

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. There were no referrals of questions of law during the period.

Applications were received for removal of three matters to the Supreme Court under section 83 of the ACAT Act and seven applications for appeal from an ACAT decision were lodged with the Supreme Court. Some of these matters are ongoing. Of those that were completed in the reporting period, one was settled by consent and three were dismissed.

The Supreme Court also completed its consideration of appeals filed in earlier years in three matters. All three were dismissed or discontinued.

ADMINISTRATIVE REVIEW

The tribunal 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 tribunal has the requisite specialist or technical advice available to it. An assessor was appointed in relation to one administrative review hearing in the reporting period.

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	2013-14	2014-15	2015-16	2016-17	2017-18
Applications Lodged	99	125	91	79	103
Applications Finalised	111	132	102	91	88

Decision Type	2013-14	2014-15	2015-16	2016-17	2017-18
Cases subject to 120 day limit					
Planning & Development	7	19	22	29	30
Heritage	2	2	1	0	0
Tree Protection	6	2	4	2	4
Other Cases					
Building & Construction	6	7	4	2	2
Revenue ¹	29	62	27	23	29
Licences & Permits	4	2	12	9	14
Dangerous Dog Licence	3	4	2	2	10
Freedom of Information	7	6	4	2	3
Public Housing Allocation/ Rental Rebate	7	15	5	9	2
Miscellaneous	28	6	10	1	9

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".

Applications concerning the same, or a substantially similar, decision may be heard together. The 103 new applications lodged related to 99 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, to enable 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 tribunal obtains the parties' views on 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 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 tribunal on a further occasion.

Of the 37 matters undergoing mediation in the reporting period, 26 were finalised as a result of an agreement reached at mediation. In the other 11, no agreement was reached and the matters proceeded to hearing. Of four matters which underwent a preliminary conference, one was finalised by agreement and three proceeded to hearing.

The number of active administrative review matters was 44 at the end of the reporting period.

The tribunal aims to have all applications completed in less than twelve months. The table below shows the age of matters not yet finalised at the end of the current and prior years. Two of the five matters shown as more than twelve months old were related matters which were finalised in early July 2018, while another two were adjourned pending the outcome of criminal proceedings in the Supreme Court. The fifth matter was a planning matter which had been heard, and the decision reserved.

Age of pending applications for administrative review as at 30 June 2018

Age of files	0–3 months	3–6 months	6–9 months	9–12 months	12 months+	Total
2017–18						
No of files	27	8	4	0	5	44
% of files	61.36%	18.18%	9.09%	0	11.36%	100%
2016–17						
No of files	11	4	1	2	3	21
% of files	52.3%	19%	4.8%	9.5%	14.4%	100%

Section 22P of the ACAT Act 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. This time limit is difficult to meet if there are more than two parties, if parties need additional time to obtain experts' reports, or if a collateral or interlocutory issue interrupts the tight preparation schedule. Because of the technical and often expert evidence, most matters arising under this legislation require a reserved decision, with further time taken by the tribunal in preparing written reasons.

The time for deciding the application may be extended by the President if satisfied that the extension is in the interests of justice. Time was extended for eight applications during the reporting period. In most cases the hearing was conducted just within the 120 day period, but further time was required for the tribunal to consider the issues and provide written reasons for its decision. The information provided below explains the circumstances in which each extension was granted:

Javelin Projects Pty Ltd v ACT Planning and Land Authority

AT 8/2017 – time extended by 139 days. The application was filed in early February 2017. The hearing was listed for 4 days shortly before the end of the 120 day period. On the last day of hearing the decision was reserved. The tribunal's decision was delivered in October 2017.

Norm Gingell & Christine Gingell v ACT Planning and Land Authority

AT 71/2016 – time extended by 31 days. The application was filed in late November 2016. The preparation of material and the listing for hearing was delayed due to the Christmas shutdown. The hearing was listed for 2 days shortly before the end of the 120 day period. On the last day of hearing the decision was reserved. The tribunal's decision was delivered in mid-April 2017. The decision ordered that that the matter be listed for a directions hearing to determine the terms of the orders to be made. The directions hearing was listed in late April 2017 and final orders were made at that time.

Alexander Morozow v ACT Planning and Land Authority

AT 20/2017 – time extended by 58 days. The application was filed in early April 2017. The hearing was listed for 3 days shortly before the end of the 120 day period. On the last day of hearing the decision was reserved. The tribunal's decision was delivered in September 2017.

Ginninderra Falls Association Inc v ACT Planning and Land Authority

AT 51/2017 – time extended by 42 days. The application was filed in early September 2017. The matter was listed in early December 2017 to consider an application for interim or other orders. The decision was reserved. The tribunal's decision with regards to the interim application was delivered in mid-December 2017, shortly before the end of the 120 day period. The matter was then listed for 4 days of hearing in late February/early March. A notice of discontinuance was filed in mid-February 2018 and orders were made in chambers dismissing the application.

Josip Sladic v ACT Planning and Land Authority

AT 43/2016 – time extended by 490 days. The application was filed in late July 2016. The hearing was listed for a total of 9 days over late December 2016 and early January 2017 and then for a further 6 days through the month of March. On the last day of hearing, the Members reserved their decision. The tribunal's decision was delivered on 29 March 2018, with the decision in AT 44/2016.

Charter Hall Reit v ACT Planning and Land Authority

AT 44/2016 – time extended by 490 days. The application was filed in late July 2016. The hearing was listed for a total of 9 days over late December 2016 and early January 2017 and then for a further 6 days through the month of March. On the last day of hearing, the Members reserved their decision. The tribunal's decision was delivered on 29 March 2018, with the decision in AT 43/2016.

Alec Wickerson v Conservator of Flora and Fauna

AT 72/2017 – time extended by 16 days. The application was filed in early December 2017. The preparation of material and the listing for hearing was delayed due to the Christmas shutdown. The hearing was listed for 1 day shortly before the end of the 120 day period. At the end of the hearing the decision was reserved. The tribunal's decision was delivered in April 2018.

Norm Gingell & Christine Gingell v ACT Planning and Land Authority

AT 2/2018 – time extended by 41 days. The application was filed in early January 2018. The hearing was listed for 4 days shortly before the end of 120 day period. On the last day of hearing the decision was reserved. The tribunal's decision was delivered in June 2018.

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.

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.

	2013-14	2014-15	2015-16	2016-17	2017-18
Civil Applications Lodged*	1,835	1,537	1,326	1,428	1,716
Common Boundaries Applications Lodged	32	12	27	20	29
Unit Titles Applications Lodged	27	52	43	25	33
Retirement Villages	3	1	1	1	4
Applications finalised	2,072	1,547	1,528	1,273	1,649

* Applications to re-list matters or to set aside default judgements are not recorded as new applications.

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

Type of Application	2016-17	2017-18
Australian Consumer Law	20	14
Common Boundaries	20	29
Contract	59	74
Damages	193	204
Debt	1,060	1,316
Debt Declaration	9	6
Goods	68	74
Nuisance	7	12
Trespass	3	3
Other	9	13
Total	1,448	1,745

The amounts sought in civil dispute applications in 2017-18 were as follows:

Amount of claim	2016-17	2017-18
\$3,000 and under	617	759
\$3,001 to \$15,000	754	820
\$15,001 and over	77	166
Total	1,448*	1,745

* 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 316 in 2017–18.

The number of new civil dispute applications increased significantly over the period, most likely due to the increased jurisdiction. The average number of days elapsed between the opening of a file and the closing of a file is 145 days, an increase from 130 days in 2016–17. This result is due to the increasing complexity of some applications now before the tribunal. 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.

In August 2017, a Ruling Tribunal handed down a decision on a question of law referred from within the tribunal under section 77 of the ACAT Act. The question of law concerned some 159 applications and related to whether legal and other costs incurred by an owners corporation in pursuing the recovery of unpaid unit title levies can be recovered in proceedings before the ACAT as 'expenses' under section 31 of the *Unit Titles (Management) Act 2011*. At the end of June 2018, 117 matters remained outstanding and 68 of these matters remained pending for more than 12 months, which has an impact on ACAT pending matter numbers for the reporting period.

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. Four 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 33 applications in the reporting period, an increase from 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 tribunal hears discrimination complaints under the *Human Rights Commission Act 2005*. Discrimination complaints are referred to the ACAT by the Human Rights Commission. Seventeen new referrals were received by the tribunal in the reporting period, and nine matters were finalised.

The ACAT also registers agreements reached at the Commission in complaints relating to discrimination. As shown in the table below, the number of conciliation agreements registered increased in the reporting period, with 32 agreements registered by the ACAT.

Discrimination	2013-14	2014-15	2015-16	2016-17	2017-18
Complaints Referred	12	7	11	13	17
Complaints Finalised	20	11	11	8	9
Agreements Registered	15	20	22	18	32

The 17 matters involved 16 complainants. The primary grounds of complaint were as follows:

Primary Ground of Complaint – 2017-18 Discrimination matters	Number
Age	1
Disability	7
Pregnancy	1
Race	3
Sex	2
Status as a Parent or Carer	2
Unlawful vilification	1
Total number of matters	17

The 17 new referrals reflect an increase of approximately 40% over the recent average number of referrals in this area. This trend, if it continues, has the potential to significantly affect the tribunal's resources. While the tribunal's processes are flexible and designed for parties to represent themselves, discrimination cases can be complicated. Most parties in this jurisdiction would benefit from expert assistance with the preparation and presentation of their case.

Most complainants in discrimination matters do not have legal representation or assistance in the preparation of their case. For this reason, the tribunal usually adopts a step-by-step approach to the preparation of a 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.

In some cases, where a complainant is unable to comply with directions to provide written witness statements or particulars of the complaint, the tribunal 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 option 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 tribunal because the complaint has previously been the subject of conciliation before the Discrimination Commissioner. The tribunal 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, orders finalising the matter are usually made the same day, or later in chambers so that the parties are not required to attend the tribunal on a further occasion.

Of the four matters undergoing mediation during the reporting period, two were finalised as a result of an agreement reached at mediation. One matter went to a preliminary conference in the period and was not settled.

The tribunal aims to resolve all discrimination complaints 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 a lack of literacy.

During the reporting period, the number of pending complaints awaiting finalisation increased from eight at the end of the previous year to 15.

Age of pending files for discrimination matters as at 30 June 2018

Number of complaints	0-3 months	3-6 months	6-9 months	9-12 months	12 months+	Total
2017-18	10	2	0	0	3	15
2016-17	5	3	0	0	0	8

Of the three matters more than 12 months old, two related matters are highly complex and have been delayed in their preparation by the need to identify legal advice and representation for the complainant. The third matter commenced final hearing in May 2018, and was adjourned pending determination of whether the self-represented complainant requires a litigation guardian in order to continue the proceedings.

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, manager or attorney, 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 focus is on the interests of the subject person.

Applications are processed and listed for hearing 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 shorter notice and may take place at a hospital or elsewhere to enable the subject person to attend and participate in the hearing.

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 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 life 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.

The tribunal writes to financial managers each year to remind them of their statutory obligation to submit accounts to the PTG for examination. The PTG reports to the tribunal about the outcome of examinations and about any failure to submit reports. The tribunal reviews the appointments of managers who do not comply with the obligation.

Guardianship & Management of Property Orders	2013-14	2014-15	2015-16	2016-17	2017-18
Applications Lodged	320	357	313	285	190
Own Motion Reviews of Orders	504	556	480	570	495
Emergency Appointments	20	18	24	31	16

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	2013-14	2014-15	2015-16	2016-17	2017-18
Dementia	32%	34%	50%	38%	37%
Mental Illness	29%	28%	18%	18%	21%
Intellectual Disability	25%	19%	17%	27%	26%
Acquired Brain Injury	14%	19%	15%	17%	17%

The most striking aspect of the year's work is 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 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, or directions about, 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 and their ease of execution.

From November 2017, the ACAT commenced guardianship hearings at the Canberra and Calvary hospitals to enable the subject inpatients to attend the hearings. The hearings occur each Friday morning, week about at each hospital. During the reporting period, 69 applications were heard.

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. The quality of participation in hearings is of a high standard, 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 as a contradictor 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* commenced on 1 March 2016 bringing widespread changes to the law and to the tribunal's work in this area. The legislation focuses on whether a person with a 'mental illness' or a 'mental disorder', as defined in the Mental Health Act, has capacity to make decisions about their treatment, care and support, with assistance if needed. 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, including 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, the tribunal authorises extensions of periods of emergency detention and the administration of electro-convulsive 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 by reason of mental impairment.

Procedures under the *Mental Health Act* set tight time frames and statutory obligations that govern workflow. 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. Some hearings are conducted by video-link. Some referrals relating to offenders are dealt with in courtrooms because the tribunal does not have an on-site custodial facility.

Mental Health	2013-14	2014-15	2015-16	2016-17	2017-18
Applications for Mental Health Orders	325	346	246	447	437
Psychiatric treatment orders made				637*	607
Community care orders made				10	4
Restriction orders made				9	4
Electro-convulsive orders made				21	29
Conditional release orders made				8	11
Applications dismissed				17	51
Reviews of existing orders where no further order was made				76	70
Applications for Extension of Emergency Detention	299	262	334+	380+	448
Emergency detention orders made				384**	454

Mental Health	2013-14	2014-15	2015-16	2016-17	2017-18
Forensic Referrals	43	22	22	13	21
Applications for ECT	10	10	14	23	25
Own Motion Reviews of Orders	877	851	917	678	530
Requests for Revocation	80	156	254+	163+	133

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 detail required in reports from psychiatrists in support of an application for an order and also the length of hearings, which normally now 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 now be accompanied by written statements that set out how the criteria for making the order were met. These many changes 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. Implementation of ICMS in December 2015 and the new *Mental Health Act* in March 2016 has enabled the tribunal to obtain data not previously available on outcomes during the reporting period. This further data is reflected in the table above.

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 dealt with as occupational regulation cases rather than administrative review matters.

Twenty-four new applications were received, and 19 matters were finalised. The tables below show the number of applications received and completed by category. This shows that the number of applications for review of decisions in relation to registration under the *Working with Vulnerable People (Background Checking) Act 2011* has more than doubled. This increase in applications was an expected consequence of that legislation applying more extensively.

Total matters	2013-14	2014-15	2015-16	2016-17	2017-18
Applications Lodged	58	41	31	24	24
Applications Finalised	33	52	40	32	19

By occupation	2013-14	2014-15	2015-16	2016-17	2017-18
Health Practitioners	11	12	6	3	4
Lawyers	10	6	12	6	5
Liquor Licensees	1	2	0	1	0
Security Guards	6	4	2	0	1
Construction Occupations	9	7	2	5	0
Long Service Leave Authority	16	2	0	0	4
Working with Vulnerable People	-	3	3	2	7
Miscellaneous	5	5	6	7	3

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, one related to a medical practitioner, one to a nurse, one to a pharmacist and one to a psychologist. The categories of notification were as follows:

Category of notification of ACAT Occupational Regulation matters relating to Health Practitioners	Number
Clinical care	2
Pharmacy/medication	1
Boundary violation	1
Total number of matters	4

The tribunal aims to have all applications completed in less than 12 months. There is some variability in the time taken to finalise an occupational regulation application. Some applications require several interlocutory events and final hearings of several days¹, while other applications are completed within a shorter timeframe and with only a brief hearing.

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 tribunal will always consider 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

¹ 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.

outcome after mediation or conference, a joint submission is made to the tribunal 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 tribunal to elaborate on the joint submission or provide further information relevant to the exercise of the tribunal's discretion, before final orders are made.

Of the two matters undergoing mediation in the reporting period, one was finalised as a result of an agreement reached at mediation. No agreement was reached in the other matter, which proceeded to hearing. Two matters underwent a preliminary conference, both of which were resolved without proceeding to a hearing.

The number of active applications in this work area increased over the reporting period from six to 11. The single matter over one year old had been remitted to the tribunal after a successful appeal in the Supreme Court. The two oldest matters were brought under the *Legal Profession Act 2006*.

Age of pending applications for occupational regulation as at 30 June 2018

Age of files	0–3 months	3–6 months	6–9 months	9–12 months	12 months+	Total
2017–18						
No of files	5	4	1	0	1	11
% of files	45.45%	36.36%	9.09%	0%	9.09%	100%
2016–17						
No of files	4	0	0	1	1	6
% of files	66.6%	0%	0%	16.7%	16.7%	100%

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 remained steady from the previous year. The average number of days elapsed between the opening of a residential tenancies file and the closing of that file is 51 days, which is the same result as for 2016–17. Applications for endorsement also decreased slightly during the period.

Residential Tenancies	2013-14	2014-15	2015-16	2016-17	2017-18
Applications Lodged *	1,150	1,191	1,175	1,093	1,068
Applications Finalised	1,132	1,152	1,176	1,108	1,039
Endorsement applications	441	374	358	381	335
Endorsement applications completed	379	429	328	401	302

* Includes matters referred by the Office of Rental Bonds

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
Abandoned before expiry of fixed term	3	0	0
Abandoned following notice	1	0	0
By lessor for access to inspect	251	246	192
By lessor for compensation	36	49	33
By lessor for rental arrears	87	72	46
By lessor for rental increase	0	2	0
By tenant for review of rental increase	1	4	9
By tenant for compensation	53	53	59
By tenant for rent reduction	10	15	0
By tenant for rent refund	5	2	4
By tenant terminate tenancy	3	0	0
Reinstate – wrongful eviction	0	1	2
Rental Bond Dispute	374	348	379
Terminate tenancy Family Violence Order or Personal Protection Order	-	-	10
Termination and Possession	317	272	291
Other	34	29	43
Total	1,175	1,093	1,068

The tribunal issued 63 warrants for eviction during the reporting year.

In August 2017, changes to the *Residential Tenancy Act 1997* came into effect to allow a protected person to seek orders from the ACAT to deal with a tenancy in circumstances where a protection order has been issued. The ACAT can terminate the existing residential tenancy agreement and order the lessor to enter into a new residential tenancy agreement with the protected person and any other person mentioned in the application. The tribunal made 10 orders, eight relating to Family Violence Orders and two relating to Personal Protection Orders during the reporting period.

The outreach project for public housing tenancy matters with Canberra Community Law (CCL), continued throughout the period, with the tribunal providing office space one morning a week for CCL to advise and assist tenants attending the tribunal for 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.

UTILITIES – ENERGY AND WATER

The ACAT:

- has jurisdiction under the *Utilities Act 2000* to determine applications for hardship assistance for energy and water customers who cannot afford to pay their bills and are facing disconnection or restriction of supply (hardship applications);
- investigates and determines complaints made by customers and consumers against energy and water utilities licensed in the ACT, including complaints about the Feed-in Tariff (complaint applications); and
- performs the role of Energy Ombudsman for the ACT and works in conjunction with the Australian Energy Regulator in this area.

During the reporting period the *Utilities Act 2000* was amended to increase the compensation limit for ACAT consideration of energy and water complaints to \$25,000.

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, the number of new hardship applications showed a significant increase. This increase can be directly attributed to the increase in tariffs – 18.95% for electricity and 17.3% for gas. 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 2017–18, 4,587 orders were reviewed by staff and 1,065 orders were listed for a review hearing before members. Staff prepared 732 debt discharge orders and 541 revocation orders for consideration by a presidential, senior or presiding member. An additional 56 debt discharge orders and 169 revocation orders were made by a senior or presiding member at hearing. Debts valued at around \$418,000 were discharged for 788 cases.

Hardship Applications	2013–14	2014–15	2015–16	2016–17	2017–18
Applications Lodged	1,116	938	852	546	758
Reconnection Orders	114	122	70	78	98
Initial Hearings	1,233	754	541	375	673
Discharge Orders	1,029	1,120	1,016	890	788
Home Visits	2	5	5	0	6
Staff Reviews	5,907	6,840	7,318	4,328	4,587
Review Hearings	865	1,102	966	739	1,065
Applications Finalised	886	1,018	836	686	710

Energy and water complaint applications

There was an increase in complaint applications from 213 in 2016–17 to 290 in 2017–18. Detailed information is provided about the complaints because this review report also assists to meet the tribunal's reporting obligations to regulators.

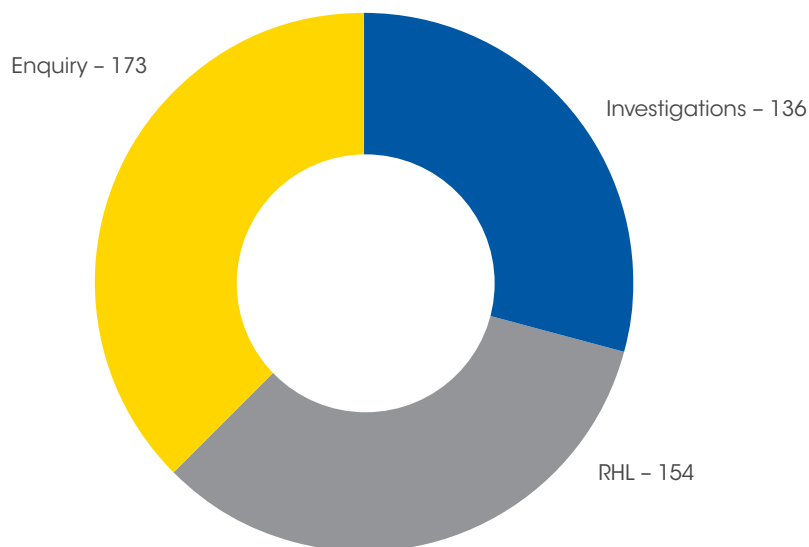
Complaints process

The ACAT Energy and Water 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 in the early resolution processes.

When a complaint is received, the tribunal registry assesses the complaint and determines the appropriate course of action. This can include:

- referring the customer back to the utility (Unassisted Referral/Enquiry);
- referring the complaint to a higher level (RHL/Assisted Referral) within the utility and requesting it contact the customer;
- notifying the utility of the complaint and commencing an investigation. This includes requesting a written response and information from the utility. Once the response is received, a process of conciliation occurs which includes the applicant having an opportunity to provide a response and further information. If the parties cannot agree on a resolution, or the ACAT considers that the matter does not require further investigation, the applicant will be provided the option of proceeding to more formal tribunal hearing processes;
- referring the complaint to the ACAT's hearing processes for conference, directions or hearing by a tribunal member.

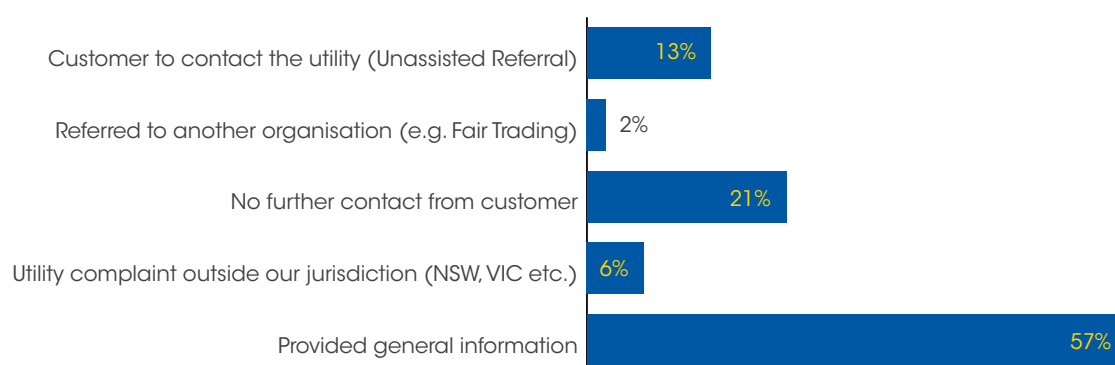
Table 1: How complaints were handled



New enquiries

During the reporting period, the ACAT recorded 173 enquiries, compared with 139 enquiries in the 2016–17 financial year. Enquiries are identified as contact by a customer who may have an energy and water related issue, but the contact is not dealt with as a complaint application to the ACAT. This may include clients seeking general information, utility advice or details on how to submit a complaint directly with the utility. It also includes situations where the ACAT 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's jurisdiction are also recorded in this area for statistical purposes.

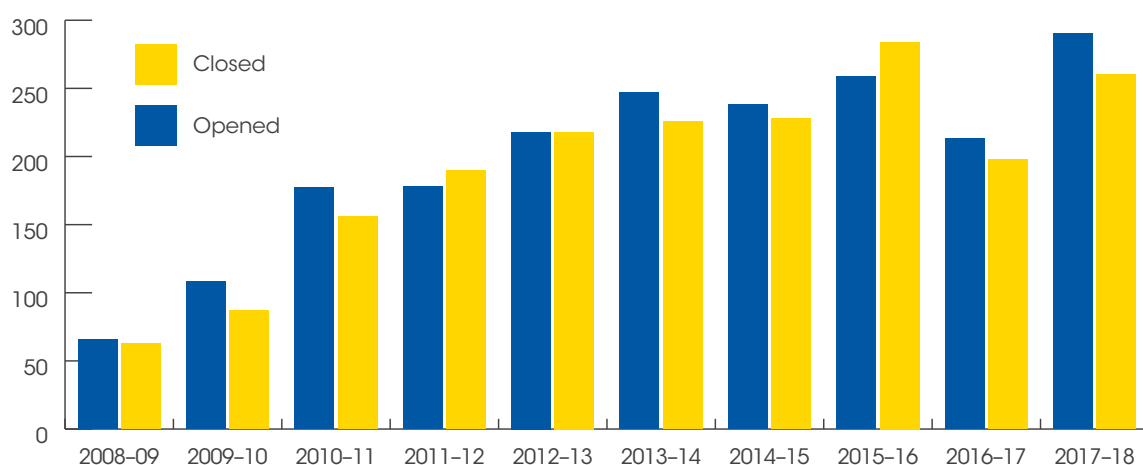
Table 2: How enquiries were dealt with



New complaints

The reporting period saw a 27% increase in complaints applications from the previous year. During the reporting period, 290 complaints were received, in comparison with 2016–17 when 213 complaints were received. While this is a sizeable increase, it is worth noting that 259 complaints were received in the 2015–16 financial year. This appears to indicate that 2016–17 was an anomaly in comparison to the overall trend since 2008–09. Out of these 290 complaints, 154 complaints were referred to the utility through the RHL process and 136 complaints were investigated by the ACAT.

Table 3: Total complaints opened and closed



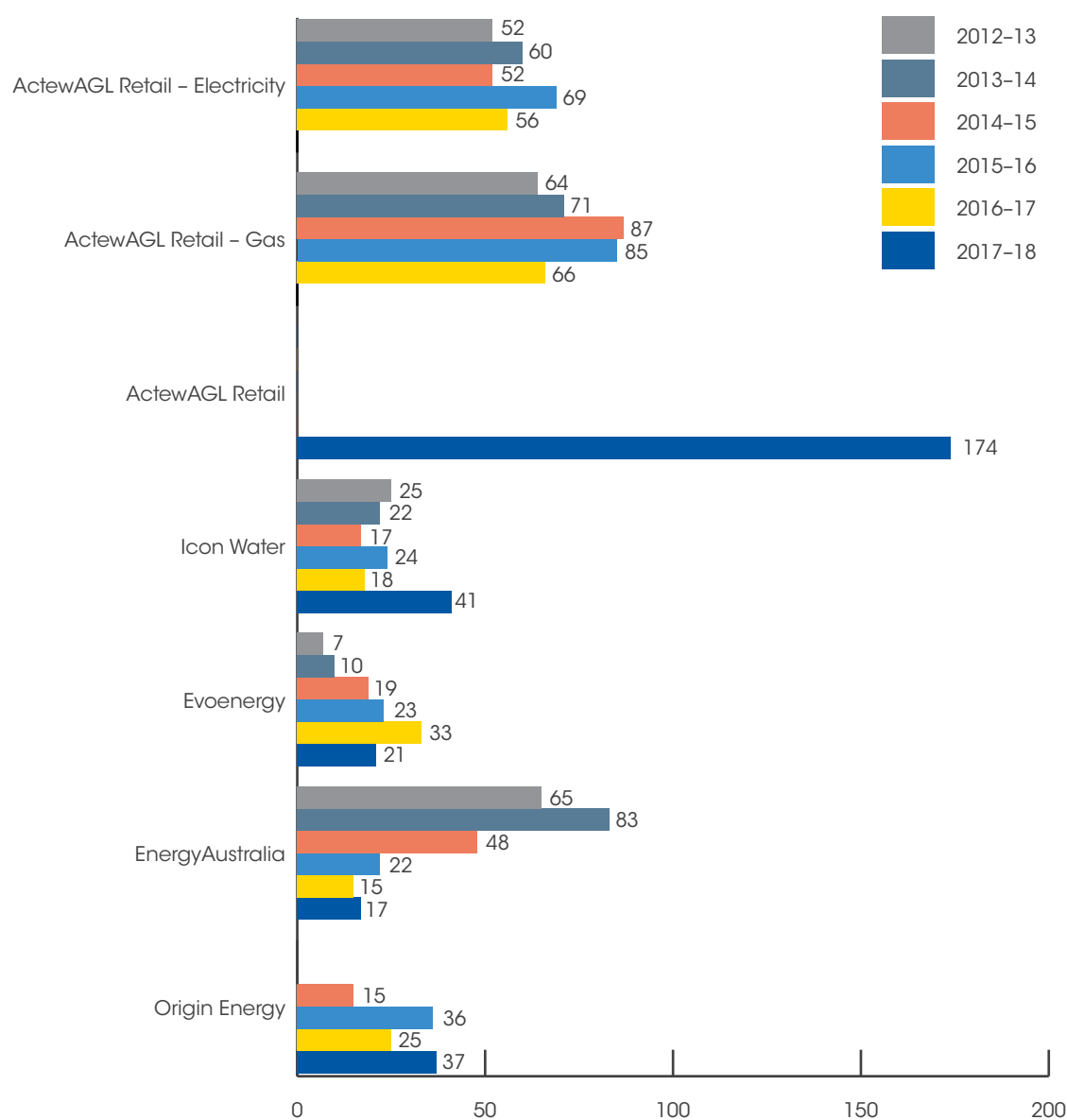
ActewAGL Retail remains the utility about which the ACAT receives the most complaints. This reflects their market size in the ACT. In comparison with the previous financial year there was a 43% increase in the number of complaints about ActewAGL. However, as previously indicated, the 2016-17 financial year saw a reduction in overall complaint numbers which now appears to be inconsistent with historical trends. If compared with 2015-16 financial year, complaint numbers last financial year are up 13% for ActewAGL Retail.

Icon Water also saw an increase in their complaint numbers in the reporting period to 41 from 18 in 2016-17. While this appears a significant increase, the increase is off a low base and the number of complaints is relatively low when considering Icon's monopoly status in the market.

Origin Energy also had an increase in complaint numbers, which is likely a result from their efforts to gain increased market share in the Territory.

Evoenergy (formerly ActewAGL Distribution) recorded a reduction in complaint numbers, and complaints about EnergyAustralia were about the same as the previous financial year.

Table 4: New complaints by utility



Notes:

1. This financial year is the first full year that ActewAGL Retail managed their gas and electricity accounts solely in Canberra. In previous years, gas complaints for ActewAGL Retail were managed by AGL in Melbourne. ActewAGL Retail gas and electricity complaints are now be reported together in line with other utilities.
2. ActewAGL Distribution changed their name to Evoenergy this financial year.

Complaint issues

As in previous years, billing remains the most complained about issue, and the number of those complaints is increasing. Complaints regarding customers' credit ratings being affected doubled (as shown in Table 6), reflecting concerns about the long-term impact this can cause customers. There was also an increase in complaints regarding debt collection.

Table 5: Complaints by issues

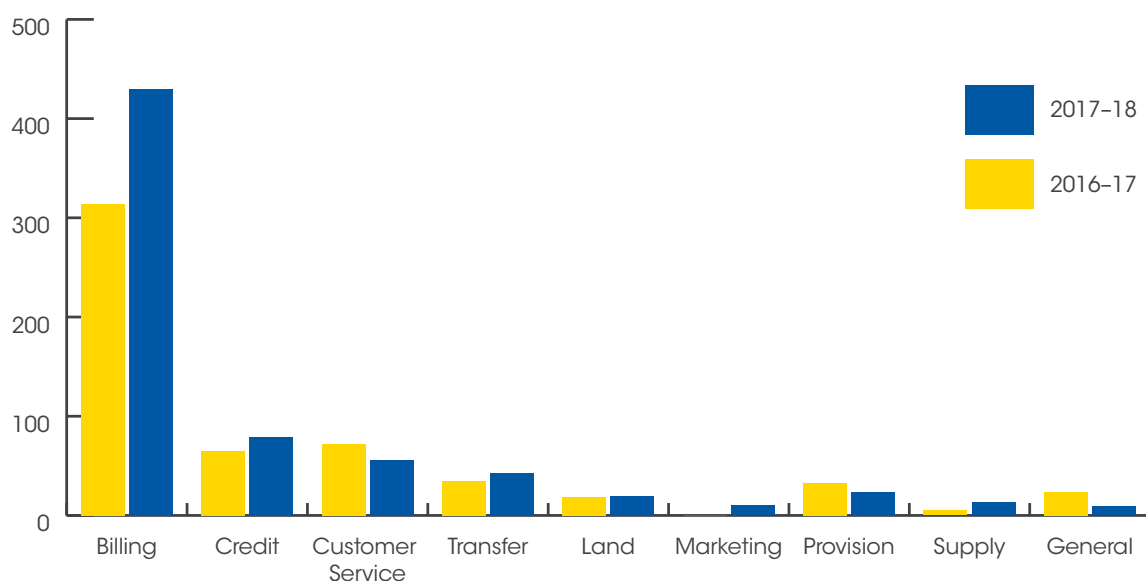


Table 6 records the issues most complained about in the reporting period and compares it with the previous financial year. In total, 684 issues were recorded for all matters including enquiries, RHLs and investigations. Consistent with previous financial years, high billing was the most recorded issue with 28% of the total 684 issues recorded. In the 2016-17 financial year 'Poor Service' previously was in the top five most complained about issues, however this year 'Meter Accuracy' replaced it. The increase in these complaints may be a result of increased awareness of issues by customers or more detailed reporting by the ACAT of this issue.

Table 6: Type of issue most complained about

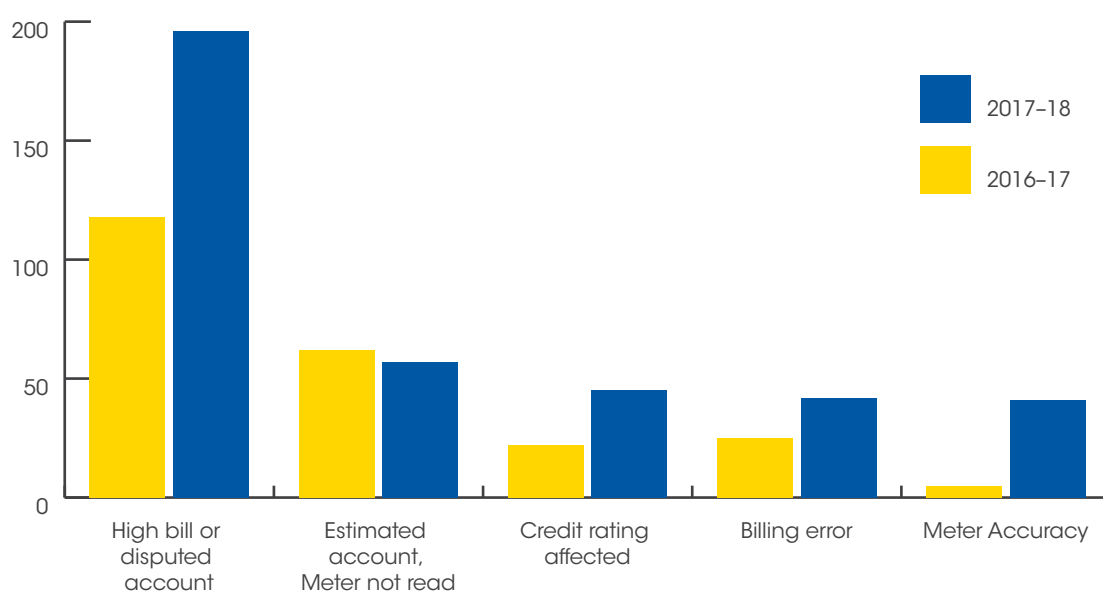


Table 7: All issues raised in complaints (including enquiries)

	Electricity Retailers			Gas Retailers			Water	Distribution		Total
	ActewAGL Retail	EnergyAustralia	Origin	ActewAGL Retail	EnergyAustralia	Origin	ICON Water	Evoenergy (Electricity)	Evoenergy (Gas)	
Billing										
High bill or disputed account	62	8	3	65	4	15	39			196
Tariff (time of use, prices)	3	0	0	0	1	0	0			4
Solar Credits	4	0	0							4
Billing error	12	4	1	16	2	1	6			42
Delayed bill or bill not received	9	0	2	1	0	0	9			21
Direct Debit/Even Pay	3	0	1	0	0	1	0			5
Fees and charges	7	0	0	3	0	0	5			15
Estimated account, meter not read	14	2	1	23	2	9	6			57
Backbilling	9	1	1	3	0	1	3			18
Delay in issuing refund or refund not received	0	0	0	0	0	0	0			0
Meter accuracy or fault	15	1	1	15	0	1	8			41
Debt transferred from another account	8	0	0	4	0	0	2			14
Common hot water system issue				1	0	0	0			1
Dear Customer	1	0	0	0	0	0	0			1
Concessions	1	1	0	1	0	0	1			4
Other	5	0	1	0	0	0	1			7
Category Total	153	17	11	132	9	28	80			430
Credit										
62.87%										
Facing disconnection due to non-payment	2	0	0	0	0	0	0			2
Disconnected/Restricted due to non-payment	0	1	2	0	0	0	0			3
Contacted by debt collectors	14	1	4	0	1	1	0			21
Credit rating affected	33	0	4	6	0	2	0			45
Payment difficulties	4	0	2	0	0	0	0			6
Arrears requiring ACAT protection (hardship)	0	0	0	0	0	0	0			0
Arrears requiring payment plan	0	0	1	0	0	0	1			2
Category Total	53	2	13	6	1	3	1			79
Customer service										
11.55%										
Poor service	10	1	2	8	1	3	2	1	1	29
Failed to respond	4	0	0	1	0	0	1	0	0	6
Incorrect advice or information provided	6	0	0	4	0	0	2	0	0	12
Privacy concern or breach	2	0	3	1	0	3	0	0	0	9
Category Total	22	1	5	14	1	6	5	1	1	56
Transfer										
8.19%										
Contract (eg variation, fees)	5	0	1	1	0	1		0	0	8
Transferred without consent	3	0	7	0	0	0		0	0	10
Site ownership issues	3	0	1	0	0	0		0	0	4

Transferred in error	5	0	1	0	0	0	0	0	0	6
Cooling cancellation not-actioned	0	0	0	0	0	0	0	0	0	0
Delay in issuing bill after transfer	0	0	0	0	0	0	0	0	0	0
Billing problems on transfer	4	0	0	0	0	0	0	0	0	4
Request for new account/transfer rejected	2	0	3	1	0	0	0	0	0	6
Other	3	0	0	0	0	1	0	0	0	4
Category Total	25	0	13	2	0	2	0	0	0	42
Land	6.14%									
easement							1	1	0	2
vegetation management							1	1	0	2
network assets							4	4	0	8
other							6	2	0	8
Category Total							12	8	0	20
Marketing	2.92%									
information	0	0	0	0	0	0	0	0	0	0
misleading	1	0	0	0	0	0	0	0	0	1
non account holder	0	0	0	1	0	0	0	0	0	1
other	3	0	0	1	2	0	1	1	0	8
pressure sales	0	0	0	0	0	0	0	0	0	0
Category Total	4	0	0	2	2	0	1	1	0	10
Provision	1.46%									
Common hot water system issue								2		2
disconnection/restriction issue							0	2	0	2
issue with existing connection							1	2	7	10
solar - network connection issues							0	2	0	2
issue with new connection							0	8	1	9
restriction issues							0	0	0	0
Category Total							1	14	10	25
Supply	3.65%									
off supply - planned							1	3	0	4
off supply - unplanned							0	3	0	3
quality issue							0	0	0	0
sewer/stormwater overflow/blockage							5			5
variation issue							0	0	1	1
Category Total							6	6	1	13
General Enquiry	1.90%									
energy & water - non complaint enquiry	1	0	0	0	0	0	0	0	1	2
energy & water - out of jurisdiction enquiry	0	0	0	0	0	0	0	0	1	1
not a licensed utility										6
Category Total	1	0	0	0	0	0	0	0	2	9
	1.32%									
Utility Total	258	20	42	156	13	39	106	30	14	684

Complaint clients

Table 8: Types of clients

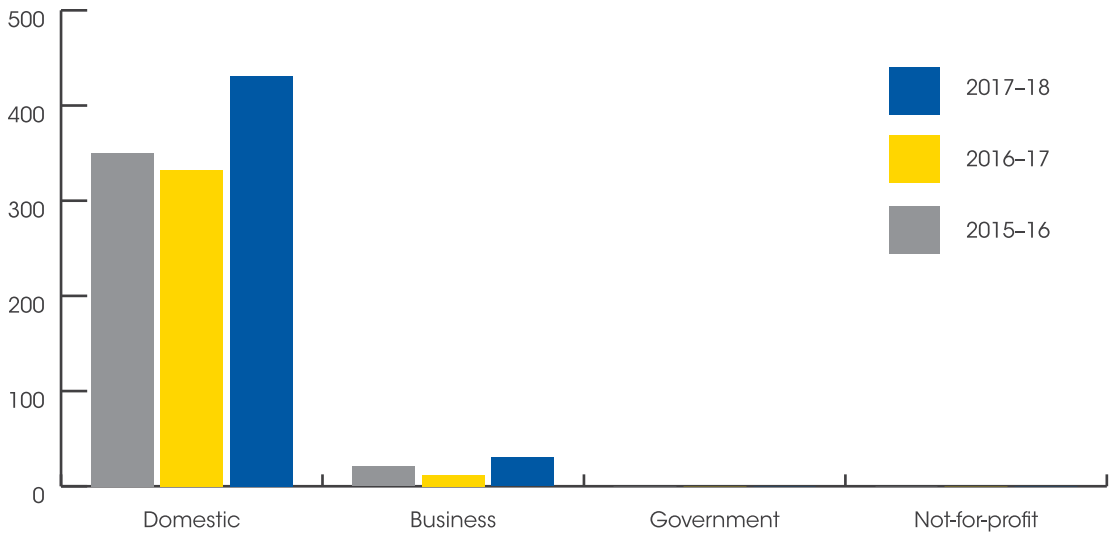
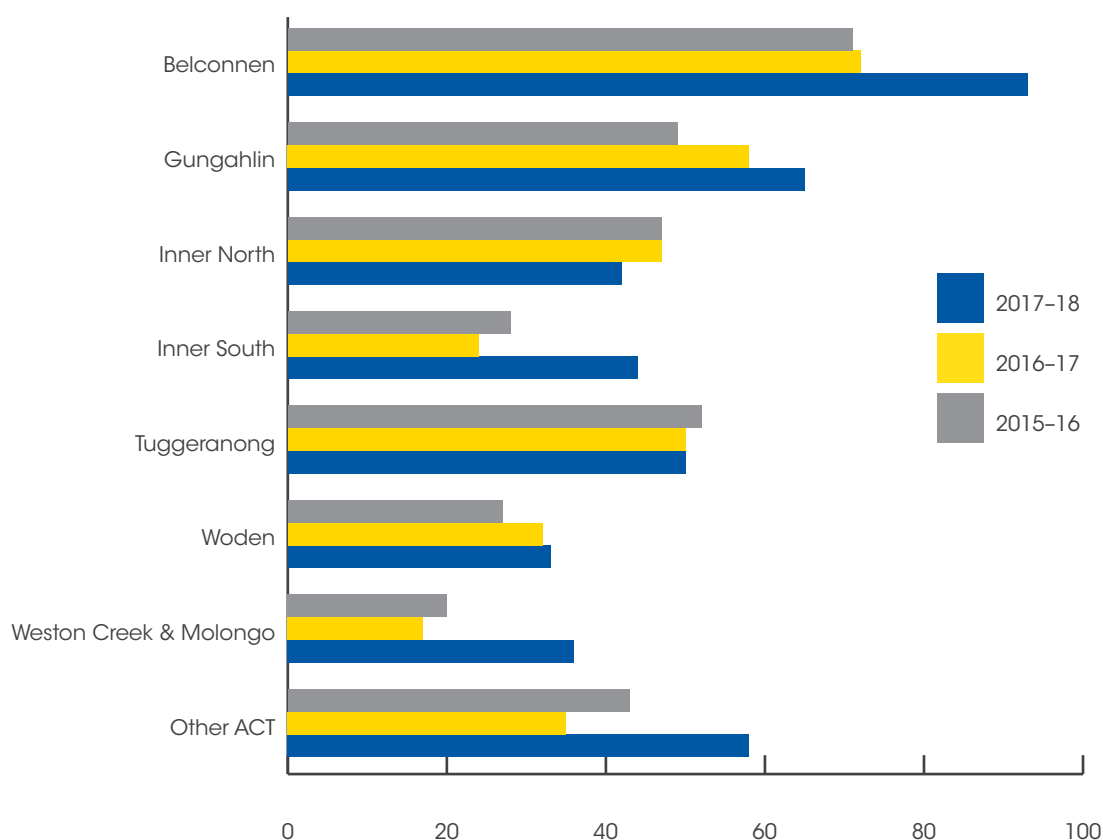


Table 9: Gender of clients



Table 10: Client location



Note: Other ACT includes complaints outside the identified areas or unknown but in the ACT. Known interstate complaints or complaints that cannot be identified as from the ACT are excluded.

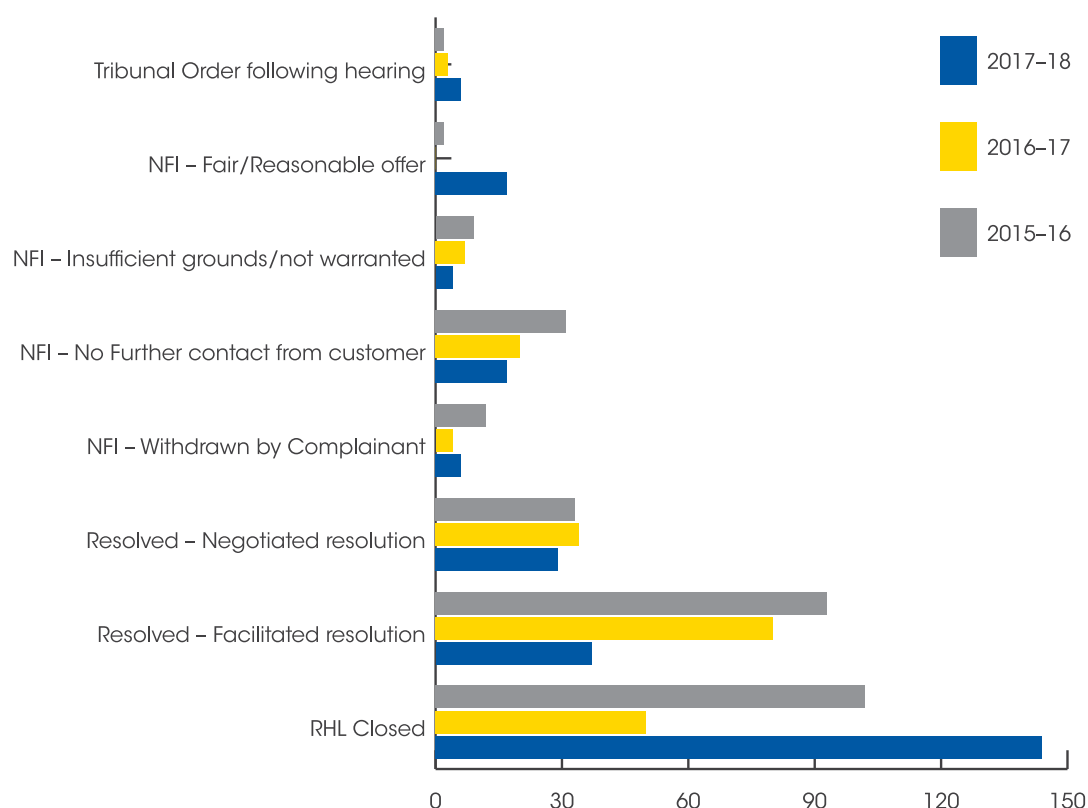
Outcomes

In the reporting period, 260 complaint applications were closed. This is a substantial increase from 2016-17 financial year where 198 complaints were closed, and a decrease from 2015-16 when 284 complaints were closed.

The majority of complaints, 144, were closed after being referred to the utility by a RHL. This figure does not indicate that the referrals were successful (data on the success of RHLs is at Table 12). During 2017-18:

- 25% of complaints were closed at the investigation stage either through the tribunal facilitating a resolution between the parties or by the ACAT actively negotiating a resolution.
- 9% of complaints were closed due to clients abandoning or withdrawing their application.
- 2% of complaints were closed due to tribunal reviewing the complaint and identifying that the complaint had no grounds. 7% of the complaints were closed when the tribunal considered that the utility's offer was fair and reasonable. 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. The applicant can choose to proceed to a formal tribunal hearing. Such hearings are relatively rare. In the last financial year, only 2% of complaints were closed after the tribunal convened a hearing and made orders binding on the parties.

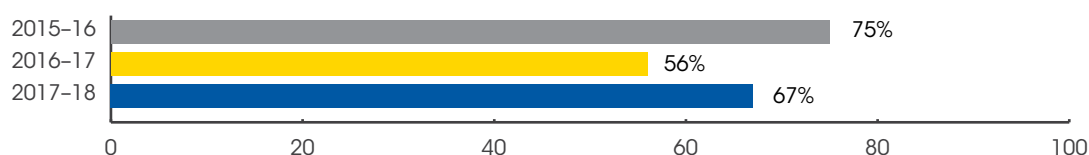
Table 11: Outcome of total complaints



Outcome of RHLs

Of the 144 complaint applications referred to a higher level within the utility, 67% were closed at this stage, without the need for further ACAT investigation. In the 2016-17 financial year, the comparable figure was 56%. The tribunal is liaising with utilities to refer as many matters to them in the first instance, in order to ensure that they have had a reasonable opportunity to resolve their customers concerns, with minimal external involvement. Ultimately, where the customer and utility are able to resolve issues and restore their relationship, this is generally beneficial to all parties.

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



Systemic issues

Section 174 of the Utilities Act requires the tribunal to report issues of a systemic nature to the relevant Minister and to the Independent Competition and Regulatory Commission (ICRC). As a number of systemic issues relate to areas regulated by the Australian Energy Regulator (AER), the tribunal may also report these concerns to the AER. The ACAT identified no systemic issues during the 2017–18 financial year.

OTHER ACTIVITIES

Working with other ombudsman schemes

The ACAT is a member of the Australian and New Zealand Energy and Water Ombudsman Network (ANZEWO), and is represented by the ACAT President. ANZEWO membership allows the ACAT 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 twice annual ANZEWO meetings, in Melbourne and Wellington, New Zealand.

Reports, submissions and information

During 2017–18, the tribunal:

- provided information to the ICRC regarding utility compliance on a yearly basis
- provided information for the AER's Hardship review and disconnection data to the AER
- provided quarterly reports to ANZEWO
- provided requested data to the Australian Energy Market Commission for the Retail Competition Review
- provided requested data to AER regarding yearly complaint figures
- participated in the ICRC water pricing review.

Participation with industry and community

During 2017–18, the tribunal:

- participated in AER tri-annual Ombudsman teleconferences
- attended an AER information session on meter contestability rules
- organised a round-table discussion on solar feed-in-tariff hardship issues
- met with representatives of Icon Water
- met with representatives of ActewAGL Retail
- met with Origin Energy representatives.