

Data insights
in civil justice

NSW Civil and Administrative Tribunal

Administrative and Equal Opportunity Division
& Occupational Division
NCAT Part 3



Data insights in civil justice:

NSW Civil and Administrative Tribunal
*Administrative and Equal
Opportunity Division &
Occupational Division*
(NCAT Part 3)

Catriona Mirrlees-Black

With assistance from Suzie Forell, Sarah Williams and Amanda Wilson

Fieldwork team: Kate Bombell and Felix Taaffe

Law and Justice Foundation of New South Wales

November 2016



This report is published by the Law and Justice Foundation of New South Wales, an independent, not-for-profit organisation that seeks to advance the fairness and equity of the justice system, and to improve access to justice, especially for socially and economically disadvantaged people.

This report was prepared by the Law and Justice Foundation of NSW with the financial support of the Department of Justice NSW and the practical assistance of NSW Civil and Administrative Tribunal.

National Library of Australia Cataloguing-in-Publication entry

Authors: Catriona Mirrlees-Black
Title: Data insights in civil justice: NSW Civil and Administrative Tribunal – Administrative and Equal Opportunity Division & Occupational Division (NCAT Part 3)
ISBN: 978-0-9945950-1-0
Subjects: NCAT Administrative and Equal Opportunity Division and Occupational Division
Other Authors/Contributors: Suzie Forell, Sarah Williams, Amanda Wilson, Kate Bombell, Felix Taaffe

Publisher

Law and Justice Foundation of New South Wales
Level 13, 222 Pitt Street, Sydney NSW 2000
PO Box A109 Sydney South NSW 1235
Ph: +61 2 8227 3200
Email: publications@lawfoundation.net.au
Web: www.lawfoundation.net.au

© Law and Justice Foundation of New South Wales, November 2016

This publication is copyright. It may be reproduced in part or in whole for educational purposes as long as proper credit is given to the Foundation.

Any opinions expressed in this publication are those of the authors and do not necessarily reflect the views of the Foundation's Board of Governors.

Contents

Key messages	5
Overview.....	5
The AEOD & OD	5
Data quality.....	5
Findings	6
Introduction	10
Scope of the task.....	10
Key questions addressed	10
An overview of the methodology	11
Factors affecting data quality	11
Background.....	12
What is a matter?	12
AEOD & OD data source.....	12
1. What types of matter are heard by AEOD and OD?	14
The number of matters finalised.....	14
Fees for different types of matter	17
2. What are AEOD and OD matters worth?	18
3. Who are the parties in AEOD and OD matters?	19
Single and multiple parties	19
Individuals and organisations	20
Parties by matter type.....	22
Who is bringing applications against whom?	23
Improving the quality of information/data about AEOD & OD parties.....	25
4. Are parties represented and by whom?	27
5. How do matters progress to finalisation?	30
First events	30
First orders.....	31
Number of adjournments.....	33
Number of all orders during a case	34
6. Attendance at hearings and other listings	36
7. How are matters finalised or resolved and how are outcomes related to orders sought?	41
Limitations of AEOD & OD data in identifying outcomes	41
Identifying the final order	41
Lack of information on outcome	42
The type of order recorded.....	42

The role of the applicant.....	42
Settlement and consent.....	42
Outcomes in AEOD	43
Outcomes in OD	44
8. How long do matters take to finalise?.....	47
Time to first listing.....	47
Time to finalisation.....	50
Factors related to length of time cases take	53
Pathways into and out of the AEOD and OD	54
Technical Note.....	58

Acknowledgements

This work was undertaken with the financial support of the Department of Justice NSW and the practical assistance of NSW Civil and Administrative Tribunal (NCAT). In particular the Foundation acknowledges and thanks Maureen Tangney (Department of Justice NSW), Cathy Szczygielski, Christine Skinner and Evan Pidgeon (NCAT) and Tome Simonovski (Industrial Relations Commission).

Shortened forms

ABN	Australian Business Number
ABR	Australian Business Register
ADB	Anti-Discrimination Board
AEOD	Administrative and Equal Opportunity Division
AP	Appeal Panel
CCD	Consumer and Commercial Division
CMS	Case Management System
Foundation	Law and Justice Foundation of New South Wales
GD	Guardianship Division
GIPA	Government Information (Public Access) Act 2009
HCCC	Health Care Complaints Commission
NCAT	New South Wales Civil and Administrative Tribunal
OD	Occupational Division

Key messages

Overview

The Department of Justice NSW is seeking to optimise the use of civil court and tribunal data for evidence-based decision-making, specifically the civil divisions of the Local, District and the Supreme Court, the Land and Environment Court and the **NSW Civil and Administrative Tribunal (NCAT)**. The Law and Justice Foundation of NSW has been engaged by the Department to investigate the quality and utility of each court and tribunal's data in informing policy and practice. This is a report on the data of NCAT's Administrative and Equal Opportunity Division (AEOD) and Occupational Division (OD).

The AEOD & OD

NCAT's Administrative and Equal Opportunity Division (AEOD) and Occupational Division (OD) share a common registry location and associated administrative functions. AEOD reviews administrative decisions made by NSW government agencies and resolves discrimination matters. OD reviews decisions by government agencies about licensing and complaints concerning professional conduct and undertakes a disciplinary role for prescribed occupations.

Data quality

AEOD & OD data is held on a legacy (pre-NCAT) management information system. The system is primarily intended to perform an administrative rather than a data reporting function so the findings presented here are not intended as a critique of the current system but rather an assessment of the utility of the data for policy purposes.

We understand a new NCAT system is proposed for use by all NCAT Divisions. The Foundation recommends that data capture, extraction and reporting is considered early in the development of any replacement system, and that appropriate account is taken of the issues raised and recommendations made in this report. We are advised that a number of the issues raised in this report are already being considered in the new NCAT-wide CMS.

The AEOD & OD CMS does not capture as large a range of information about matters as the CMS used in the CCD and Appeals Panel. It would appear that manipulation of the data (including deleting cases entered in error) and the extraction of data is not currently within the remit of NCAT staff, which limits its utility. Also Tribunal Members do not have direct access to the system which has an impact on the quality of some data, such as case outcome.

However, the Foundation's review indicates that the AEOD & OD CMS does provide a good record of:

- The type of matters coming to AEOD & OD (by grouping into appropriate lists and linking directly to the relevant statutory authority)

- The number of individual applicants compared to organisational (or *company* on the CMS)
- The number of meetings, conferences and hearings that cases are assigned
- The time between lodgement and finalisation of matters.

It is probably a good record of:

- The number of parties (the Foundation was not provided with the details of each party)
- The time to first hearing following lodgement (there is some evidence of data entry errors).

It provides a limited record of:

- Whether or not parties are represented (undercounting the extent to which organisations are represented by in-house officers and lawyers).

And, it is not a good record of:

- Attendance of parties at hearings (this is not transferred to the CMS from paper records, which are themselves of limited value)
- The outcome of matters from the parties' perspective (a significant proportion of outcomes are not recorded in a way that indicates this).

Findings

With these constraints in mind, an analysis of the CMS data provided the following findings for the 1,017 matters finalised in AEOD & OD in 2015.

What types of matters are heard in the AEOD & OD?

- AEOD lists accounted for about three-quarters of matters finalised (76%). Cases brought to AEOD are generally reviews of administrative decisions made elsewhere (for instance about victim compensation, working with children checks and state revenue), an exception is some discrimination matters.
- OD lists account for the remaining quarter (24%). Cases brought to OD are also for the most part reviews of decisions made elsewhere, including licensing and regulation and those of some professional bodies, but also have a disciplinary and enforcement function relating to some professional disciplines.
- The biggest lists in AEOD & OD are *AEOD Administrative review* which accounted for 36% of all matters finalised in 2015, followed by *AEOD Community services* and *AEOD Equal opportunity* at 15% and 14% respectively.
- The most common actions brought for *AEOD Administrative review* concerned public access to Government Information (GIPA) - 40% of *AEOD Administrative review* matters; victim compensation - 22%; and firearm regulation -12%. This equates to GIPA making up 15% of all AEOD & OD matters; victim compensation 8% and firearms regulation 4%.

What is the monetary value of these matters?

Most matters coming to AEOD & OD do not relate to financial claims so no information is recorded on the AEOD & OD CMS regarding the monetary value of claims.

Who are the parties in AEOD & OD matters?

- Most cases involve just one applicant (95%) and one respondent (97%).
- In AEOD, matters predominantly had individual applicants (85% of matters finalised in 2015) and government respondents (77%). Business (other than health or education related) accounted for 8% of AEOD matters' applicants and 4% of respondents.
- The exact nature of the respondent varies considerably by list. Within the *AEOD Administrative review* list, for instance, the Victim's Commissioner is the respondent for all victim compensation matters and NSW Police for all firearm regulation matters. The most common respondents in GIPA matters were local councils (25.7% of GIPA matters) and NSW Police (16.9% of GIPA matters).
- In OD the majority of matters also had individual applicants (64%), followed by government (22%) and other organisations such as professional bodies (10%). In two-thirds of matters (66%), the respondents were government, and most of the remainder were individual(s) (32%).
- Overall, in AEOD & OD matters most commonly involved an individual applicant and a government respondent (63%). Next most common was business vs government (6% of matters).

Are parties represented and by what types of representatives?

- In the CMS, 47% of AEOD & OD applicants and 62% of respondents had a legal representative or agent recorded on the CMS (the CMS does not distinguish between these).
- Applicants (64%) and respondents (96%) in *AEOD Revenue* matters were the most likely to have a representative recorded in the CMS. Applicants (36%) and respondents (30%) in *OD Legal and other professions*, were the least likely to have representation recorded in the CMS. This is perhaps because some lawyers represent themselves and the relevant professional bodies use in-house lawyers that tend to be recorded on the CMS as the party, rather than as the party's representative.¹

How do matters progress to finalisation?

- The CMS records case related events and timetabled listings to assist with the administration of matters. The first event is generally a directions hearing, planning meeting or conference (73% of first events) and these most commonly result in an adjournment (81%).

¹ Of the 5 legal professional discipline matters, the applicant was recorded in the CMS as represented in 4 matters and the respondent in 1. It was not feasible on the data we were provided with to assess the recording of representation in health discipline matters.

- Adjournments were common in these lists – 83% of matters were adjourned at least once and over a fifth (21%) were adjourned four or more times.
- Only 10% of cases went straight to a hearing of some type. The progress of cases will in part reflect Divisional listing rules. *AEOD Equal opportunity* matters, for instance, were most likely to have a leave hearing recorded as their first listing (25%).

Do parties attend hearings?

- Attendance at hearings is not recorded on the CMS. But, according to the 100 casefiles the Foundation reviewed, in only 4 matters neither the applicant or the respondent attended any hearing (attendance by the applicant or respondent was not clear in a further 7 and 5 matters respectively).
- Paper hearing forms should collect information on who appears for each of the applicant and respondent, but this information is not transferred to the CMS. In 39 of the 100 AEOD & OD casefile hearing forms reviewed by the Foundation, applicants were represented by a legal or other type of independent or in-house representative in at least one hearing. They attended in person but had no formal representation in a further 50 matters (there was no attendance, or the situation was not clear, in the remaining 11 matters).
- In contrast, respondents were represented at least once in 85 of the 100 matters and attended in person but had no formal representation in 6 of the 100 matters (no one attended, or it was not clear, in the remaining 9 matters).

How are matters finalised or resolved and how do orders made compare to orders sought?

- The outcome of matters is captured in the CMS as a final order. However, the type of decision was not recorded in 12% of AEOD matters and 16% of OD matters, with the CMS just noting that a decision had been issued. There were also a small number of cases where the outcome recorded on the CMS did not match the decision made. In OD there are some outcomes where it is necessary to know the role of the applicant to determine the effect of the decision that was made.
- The most common outcome recorded for AEOD matters finalised in 2015 was that the applicant withdrew the matter or failed to attend a hearing (33.2%). The case was recorded as dismissed (for reasons other than non-attendance) in a further 29.2% of matters. The Tribunal was recorded as granting the application, wholly or in part in 11.5% of matters. Agreement between the parties (through settlement or a consent order) was recorded for 13.7% of matters.
- For OD matters finalised in 2015, 24.9% were recorded as having been withdrawn or dismissed for non-appearance. The application was dismissed for some other reason (including that the original decision was affirmed) in 22.0% of matters. The outcome was recorded as a restriction/penalty on a licensee/practitioner in 21.2% of matters, though our analysis indicated that some of these were variations of the original conditions imposed. Agreement between the parties was rare (recorded for 5% of matters), reflecting the type of matters dealt with in this Division.

How long do matters take to finalise?

- AEOD and OD have a similar profile of time taken from application lodgement to date of finalisation, with about half of matters taking between 3 and 6 months to finalise and nearly a third between 6 and 12 months. The percentage of matters taking more than a year was 15% in AEOD and 18% in OD. The average number of days to finalise was 217 in AEOD and 222 in OD.
- Particularly time consuming were the 49 professional discipline matters in the legal and health professional lists, which averaged 347 days to finalise.² Excluding these matters from the OD average reduces it from 222 days to 190 days.
- The length of time a case takes varies considerably by how it finalises. The shortest cases were those where the applicant withdrew or the case was dismissed for non-appearance – taking an average of 140 days.

² These are matters brought as a barrister/solicitor disciplinary action (s551 and s555) or a s167 complaint against a health professional.

Introduction

The Department of Justice NSW is seeking to optimise the use of civil court and tribunal data for evidence-based decision-making, specifically the civil divisions of the Local, District and the Supreme Court, the Land and Environment Court and the NSW Civil and Administrative Tribunal (NCAT).

To facilitate this process, the Law and Justice Foundation of NSW (the Foundation or LJF) has been engaged by the Department to investigate the utility of data collected by the four NCAT Divisions, for the purpose of informing decision-making. This report provides findings and observations from the analysis of two of NCAT's Divisions that are managed together **Administrative and Equal Opportunity Division (AEOD)** and the **Occupational Division (OD)** and share the same CMS system (which differs from that used in the other NCAT Divisions). Separate reports cover Consumer and Commercial Division (CCD), Guardianship Division (GD) and the Appeal Panel (AP).

Scope of the task

The Foundation was asked to:

- assess the content and quality (reliability, validity) of NCAT data as evidence for the purpose of policy making, and
- suggest any changes to data definition, collection, entry, analysis and/or retrieval that would improve the quality and utility of the data for this purpose.

Key questions addressed

In order to explore the content and quality of NCAT data and its suitability for the purpose of policy making, we are examining whether data from each NCAT Division can address a series of questions. In this report we ask:

1. What types of matters are heard in the AEOD & OD?
2. What is the monetary value of these matters?
3. Who are the parties in these matters?
4. Are parties represented and, if so, by what type of representative?
5. How do matters progress to finalisation?
6. Do parties attend hearings?
7. How are matters finalised or resolved and how do orders made compare to orders sought?
8. How long do matters take to finalise?

In each case we provide a snapshot of the available data and raise key issues that impact upon the reliability and validity of that data. It is important to bear in mind that information and data are primarily collected by AEOD & OD to support the administration of the Division, and systems have been primarily designed for that purpose.

An overview of the methodology

To assess data quality in the AEOD & OD and answer the priority questions, the Foundation used the following sources:

- Unit record data for all matters finalised in AEOD & OD during 2015, taken from the AEOD & OD Case Management System (CMS) including information on, processes, orders made, outcomes and relevant dates.
- Unit record from the CMS on the participants in matters finalised in AEOD & OD during 2015, including information on applicants and respondents and their recorded representatives. This could not be attached to the above matter data.
- Codes applied by the Foundation to describe the applicant(s) and respondent(s) in each matter and attached to the unit record data.
- A stratified sample of 100 paper files held by the AEOD & OD, to check the accuracy of information on the CMS and collect relevant information not held electronically.
- Relevant documents, including legislation, forms, instructions and procedure manuals used within AEOD & OD.

No tests of statistical significance have been used in the analysis presented here as it is a description of all the matters finalised in AEOD & OD in 2015. However, small differences between numbers/percentages *and* findings based on a small number of cases are the least robust and the least likely to be replicated in another year of data. More reliance can be made on findings with larger percentage differences and the larger the number of cases on which the finding is based. Some findings based on a very small number of cases are not included in this report to protect the privacy of AEOD & OD clients.

Factors affecting data quality

As was the case for Local Court data³, the utility of NCAT data to answer policy questions and to accurately inform decision-making may be compromised in a number of discrete ways. In each discrete data system, quality may be affected by:

- relevant information not being collected or recorded (e.g. on applicant and respondent entity types, and their representatives if any)
- how data or information is defined (e.g. definitions of matter types and of representatives)
- how data is collected and then entered onto the NCAT databases (e.g. forms being completed and/or data entered by a range of different individuals, with varying incentives to record data accurately)
- how data is stored and retrieved (some information is only available on the paper files)
- the sheer amount and complexity of the data held and how the data systems have been built, documented and maintained over time to accommodate this complexity
- how data is analysed, cleaned and reported.

³ Forell, S & Mirrlees-Black, C 2016 *Data insights in civil justice: NSW Local Court* Law and Justice Foundation of NSW, Sydney.

Background

NCAT's AEOD and OD share a common registry location and associated administrative functions. AEOD reviews administrative decisions made by NSW government agencies and resolves discrimination matters. OD reviews decisions by government agencies about licensing and complaints concerning professional conduct and undertakes a disciplinary role for prescribed occupations.⁴

Applicants or appellants (the term applicant is used interchangeably henceforth) lodge a claim against a respondent, or appeal or request a previous decision to be set aside. Applications to AEOD are on paper forms, with separate forms for Administrative Review, External Appeal (an appeal from an external body) and a General Application. Each form requests basic information about the applicant and the respondent and details of the nature of the grounds for the application, the appeal or the orders sought. E-filing is not an option in these divisions.

What is a matter?

In both AEOD and OD a matter is one application to have a final decision made, whether on a substantive matter, or the review of an external decision. There are examples of related matters which are dealt with at the same time, but these are separate applications (e.g. reviews relating to a number of different freedom of information matters from the same applicant against the same respondent; or relating to different aspects of a taxation matter). Any interlocutory decisions required are usually dealt with under the same matter number. It is therefore relatively straightforward to identify when a matter started and when it finalised, and what the final outcome was.

AEOD & OD data source

One management information system (the AEOD & OD CMS) is currently employed by both divisions, though this will be replaced by a whole NCAT system in due course. Currently, there is no option to file matters electronically in this Division so all data on the CMS is entered by registry staff. The CMS is used primarily to manage the business of the Tribunal by keeping a record of lodgements, fees paid, listings, hearings, correspondence, participants and orders made. The AEOD & OD CMS is a legacy system and as such technical support, including data extracts, is mainly undertaken by staff elsewhere in the Department. This appears to limit the opportunity to interrogate the data on demand. However, some management reports can be run in-house and the data is also used for the purpose of annual reporting. A list of the datasets and fields provided to the Foundation for this research is at Table T.1.

When registry staff enter a matter onto the CMS they are first required to select the relevant list type from a drop down menu (see first column of Table 1 for the options). In practice

⁴ NSW Civil and Administrative Tribunal (NCAT), Annual Report 2014-2015.

data could be analysed by the full list but for the purpose of this summary report some lists have been combined, in particular the *Health professional* lists (as shown in Table 1).

Table 1: relationship between AEOD & OD lists and their reporting in the NCAT annual report and in this report

CMS list types	LJF list category reported here
AD Administrative list	AEOD Administrative review
AD Community services list	AEOD Community services
AD Revenue list	AEOD Revenue
Equal Opportunity Division Discrimination list	AEOD Equal opportunity
Equal Opportunity Division Original matters	AEOD Equal opportunity
Revenue division review matters	AEOD Revenue
Victims support division – from victims compensation tribunal	AEOD Administrative review
Health Professional List – Chinese Medicine	OD Health professional
Health Professional List – Chiropractic	OD Health professional
Health Professional List – Dental	OD Health professional
Health Professional List – Medical	OD Health professional
Health Professional List – Nursing and Midwifery	OD Health professional
Health Professional List – Osteopathy	OD Health professional
Health Professional List – Pharmacy	OD Health professional
Health Professional List – Physiotherapy	OD Health professional
Health Professional List – Podiatry	OD Health professional
Health Professional List – Psychology	OD Health professional
Legal service division – professional discipline	OD Legal and other professional
Occupational division – administrative list	OD Administrative review
Occupational division – legal professional list	OD Legal and other professional
Occupational division – other professional list	OD Legal and other professional
Appeal Panel – internal appeal	Not included ¹
General division	AEOD Administrative review

Note: 1. Two Appeal Panel matters are excluded from the findings presented here

1. What types of matter are heard by AEOD and OD?

The work of both AEOD and OD originates in decisions made by, or referrals from, external bodies. Its workload is, therefore, subject to a number of drivers, including: relevant statutory provisions, the decisions made by relevant external bodies, awareness of the Tribunal’s services and decisions by potential applicants to take up those services. A summary of the type of work of each list is provided in Table 2.

Additional information on the types of matter heard is provided by reference to the statutory authority under which applications are made. A list of these for matters finalised in 2015 are provided in Table A.1 (for AEOD) and Table A.2 (for OD) in the Annex Tables.

The AEOD & OD case management information system (CMS) records information about the Division, list and statutory jurisdiction of matters.

Table 2: Type of work of AEOD & OD lists

Type of work	
AEOD Administrative review	Reviews of administrative matters about firearms licensing, access to government information, privacy of personal information, victim’s compensation and some other government decisions
AEOD Community services	Applications to allow a disqualified person to be considered for clearance to work with children Reviews of decisions by the Children’s Guardian to refuse or cancel clearance for working with children
AEOD Equal opportunity	Complaints of discrimination referred by the Anti-Discrimination Board (ADB) relating to discrimination, harassment, victimisation and vilification Reviewing complaints that have been declined by the ADB and deciding whether to register conciliation agreements made at the ADB
AEOD Revenue	Reviews taxation assessment and decisions by the Chief Commissioner of State Revenue
OD Administrative review	Reviews decisions made by NSW government agencies, including decisions about the licensing and regulation of the: security industry, taxis, buses, hire cars, tow trucks, security industry, builders, real estate agents, motor dealers and repairers, pawnbrokers, second hand dealers, stock and station agents, business agents, travel agents, valuers and licensed conveyancers
OD Health professionals	Conduct disciplinary proceedings or enforce or review decisions of professional bodies, for serious complaints against a range of health professionals
OD Legal and other professions	Conduct disciplinary proceedings, enforce or review decisions of professional bodies, for serious complaints against: architects and other building professionals, legal practitioners and vets

The number of matters finalised

The findings presented here are for the 1,017 matters which were finalised during 2015, by any means other than they were an error in registration (n=14) or they were recorded as appeal matters (n=2). AEOD lists accounted for about three-quarters of matters finalised

(76.3%) and OD lists for the remaining quarter (23.6%). The *Administrative review* list in AEOD accounted for 36.1% of all matters finalised, followed by the *Community services* list and the *Equal opportunity* list at 14.9% and 14.3% respectively (Figure 1).

Figure 1: Matters finalised in AEOD & OD in 2015, by list

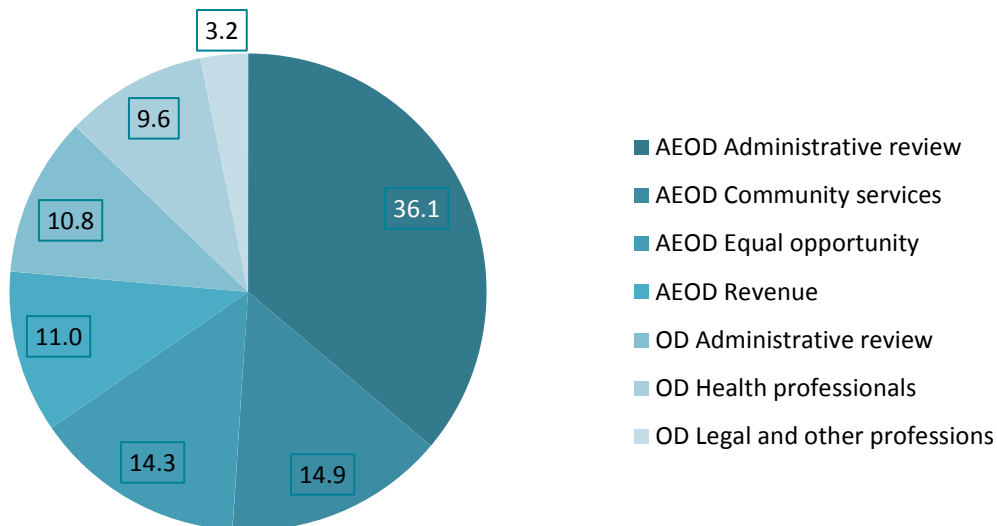


Table 3 provides further breakdown of the AEOD & OD *Administrative review* lists (which accounted for 36.1% and 10.8% of AEOD & OD matters finalised in 2015 respectively) by reference to the statute under which the action was brought. Cases brought under the *Government Information (Public Access) Act 2009* (GIPA) account for 14.6% of the work of AEOD & OD; 8.0% of matters relate to decisions regarding victim compensation (*Victims Rights and Support Act 2013*; *Victims Support and Rehabilitation Act 1996*); and 4.3% to firearm regulation related decisions (*Firearms Act 1996*; *Firearms Regulation 2006*). Within OD, administrative review matters most commonly related to home building (4.2% of all AEOD & OD matters) and passenger transport occupations (2.7%).

Although a count of matters provides useful information on demand for tribunal services, it is important to note that not all matters are equal in terms of the workload they impose on the Tribunal. As discussed in section 5 on how cases progress, some matters tend to be particularly complex and time consuming, such as those in the *AEOD Revenue* list and *OD Professional discipline* matters.

Table 3: Number of AEOD & OD matters by combined list type

	Number of matters finalised in 2015	Percentage of all AEOD & OD matters
	N	%
AEOD Administrative review	367	36.1
AEOD Admin – GIPA	148	14.6
AEOD Admin – Victims	81	8.0
AEOD Admin – Firearms	44	4.3
AEOD Admin – Privacy	24	2.4
AEOD Admin – Guardianship	20	2.0
AEOD Admin – other	50	4.9
AEOD Community services	152	14.9
AEOD Equal opportunity	145	14.3
AEOD Revenue	112	11.0
OD Administrative review	110	10.8
OD Admin – Home building	43	4.2
OD Admin – Passenger transport	27	2.7
OD Admin – Security industry	12	1.2
OD Admin – other	28	2.8
OD Health professionals	98	9.6
OD Legal and other professions	33	3.2
Total	1,017	100.0

Source: AEOD & OD CMS – matters finalised in 2015.

Number of matters

Data quality – reasonable

The CMS provides a reasonable count of the number of matters finalised. At least some matters entered in error are left as lodgements within the data (presumably as only system support staff can remove them). They can be identified by their finalisation code 'error in registration of matter' and in some cases by their matter title 'reuse'. Any count of lodgements will need to actively identify and exclude these matters: most, but not all, are closed within a month of lodgement.

45 matters were flagged as potential duplicates in that they had the same matter title, were on the same list, had the same statutory jurisdiction and the same finalisation date. 27 of these matters were checked against decisions and/or their casefiles. This indicated that a maximum of 8 (29%) could potentially be duplicates – the remainder were related matters. Extrapolating from these figures suggests a maximum over-count of 13 in the 1,017 finalisations in 2015, which is only 1% of the total number of matters.

A comparison of 100 casefiles with the information recorded on the CMS shows that all matters were assigned to the correct list. Five discrepancies were checked, and the CMS found to be correct.

Fees for different types of matter

The fee arrangements to use the AEOD and OD tribunals are not straightforward, depending as they do on the type of matter, the type of applicant and the statutory requirement regarding the number of Members to hear the case. Not all applications attract a fee (such as those under the *Anti-Discrimination Act 1977*), and there is no distinction between corporations and individuals in the fee rate for the two *Administrative review* lists. Concession fees are available in certain circumstances.

It isn't feasible to use the CMS to determine what fees have been paid as we understand there are bulk billing arrangements for some organisations that are not captured in this way.

As it was not feasible to identify the fee paid from the data provided to the Foundation, or to link this information to whether an applicant was recorded as an individual or company (attracting the corporate rate in some circumstances) we can't comment on the extent to which applicants are paying the correct fee.

Data quality – unknown

It was not possible to comment on the accuracy of fee data.

2. What are AEOD and OD matters worth?

Most matters coming to AEOD & OD do not relate to financial claims so no information is recorded on the AEOD & OD CMS regarding the monetary value of claims. While some matters before AEOD & OD have a monetary element, such as the amount in dispute in a revenue case, the compensation payment to a victim or a fine to be imposed as a disciplinary measure, this information is not collected on applications and is not recorded on the CMS.

Without this information it isn't feasible to comment on the financial value of cases appearing before AEOD & OD. However, the 'value' of cases in AEOD & OD is not primarily financial, but rather – depending on the list – about the right of individuals to have administrative decisions against them reviewed and the protection of the community from those currently unfit to work within their profession.

3. Who are the parties in AEOD and OD matters?

Single and multiple parties

Information about all the parties to a matter is held on the CMS, together with their contact details. A shortened form of the parties' names also makes up each case title.

The Foundation was not provided with a full list of all parties to each matter, although it is our view that this information could be extracted from the system. In the absence of this, information on the number of applicants and respondents was extrapolated from the case title. Matters were identified as having more than one applicant or respondent where the case title included: 'anors' (another), 'ors' (others) or symbols such as '&' and '+'.

Matters coming to AEOD & OD most commonly involve only a single applicant and single respondent. *AEOD Revenue* cases were the most likely to have two or more applicants (20.5%) and *AEOD Equal opportunity* most likely to involve two or more respondents (11.0%) (Table 4).

Table 4: Percentage of matters with a single applicant/respondent

CMS List	Single applicant		Single respondent
	N	% of matters	% of matters
AEOD Administrative review	367	96.7	95.4
AEOD Community services	152	90.1	100.0
AEOD Equal opportunity	145	97.9	89.0
AEOD Revenue	112	79.5	100.0
OD Administrative review	110	100.0	100.0
OD Health professionals	98	100.0	100.0
OD Legal and other professions	33	97.0	97.0
Total	1,017	94.7	96.7

Source: LJF entity coding of all 2015 finalisations recorded in the AEOD & OD CMS data.

Number of applicants and respondents

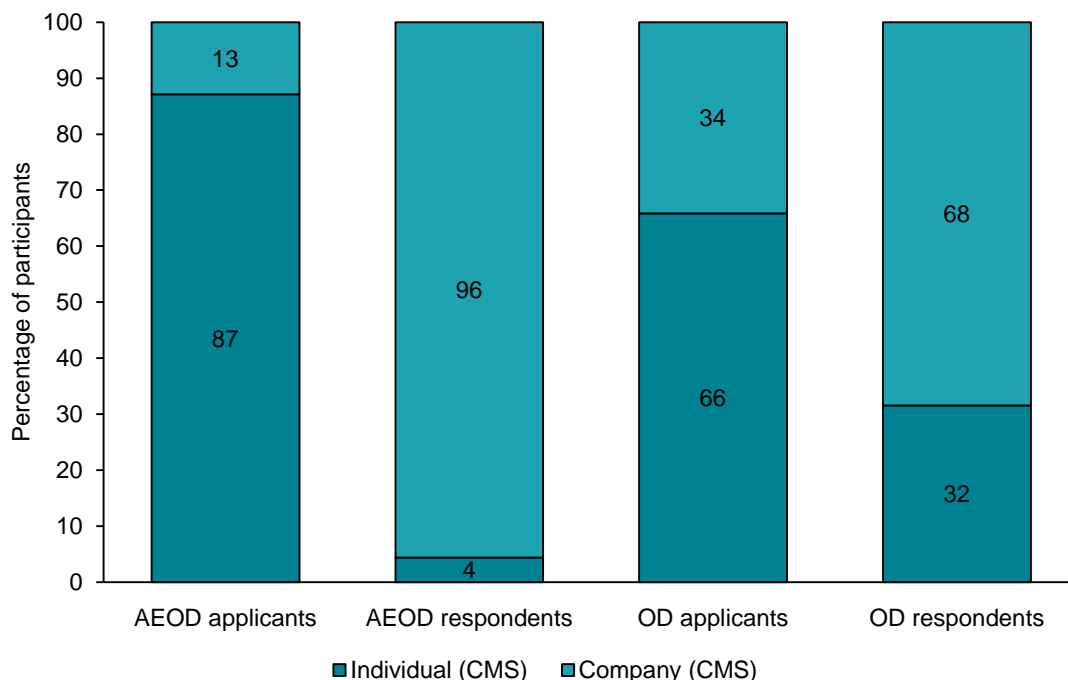
Data quality – probably good

A comparison of 100 casefiles with the information recorded on the CMS shows that all matters with more than one applicant could be correctly identified. In 3 cases there was a mismatch for respondents but this was because additional parties joined the proceeding after initial lodgement. Case title should not, therefore, be relied on as an indicator of the number of parties. As we couldn't be provided with the relevant data in the timescale of this project, we cannot determine whether late parties are routinely added to the CMS.

Individuals and organisations

The AEOD & OD CMS includes a field to distinguish between *individuals* and *companies*. This is completed by administrative staff at the point of lodgement, and can therefore be used to determine if a corporate fee rate applies. Figure 2 shows that applicants to AEOD & OD were predominantly recorded on the CMS as an *individual* and that the respondents were predominantly recorded as a *company* (in practice *company* includes any organisation including public bodies, and this is explored further below).

Figure 2: Percentage of AEOD & OD applicants and respondents for matters finalised in 2015 recorded as individual or company on the CMS



There were though distinct differences between lists with applicants to *AEOD Revenue* split between individuals (41.9% of applicants) and companies (58.1%) as were those to *OD Health professionals* (51.5% and 48.5% respectively) – see Table 5. The majority of *OD Legal and other professions* applicants were recorded as a company (75.0%), while

respondents were primarily recorded as individuals (86.7%). These variations reflect the mix of business of the lists as described earlier.

Table 5: Percentage of AEOD & OD participants recorded in the CMS as an individual or a company (including more than one participant per matter)

	CMS record			
	Applicants		Respondents	
	N=1,029		N=1,055	
	Individual	Company	Individual	Company
	%	%	%	%
AEOD Administrative review	91.3	8.7	2.5	97.5
AEOD Community services	100.0	0.0	0.6	99.4
AEOD Equal opportunity	100.0	0.0	17.0	83.0
AEOD Revenue	41.9	58.1	0.0	100.0
OD Administrative review	91.9	8.1	2.7	97.3
OD Health professionals	51.5	48.5	47.0	53.0
OD Legal and other professions	25.0	75.0	86.7	13.3
Total	82.0	18.0	10.6	89.4

Source: AEOD & OD CMS – all participants in 2015 AEOD & OD finalisations. Includes multiple participants for a matter.

Individual or organisation?

Data quality – probably good

A comparison of 100 casefiles with the information recorded on the CMS found that all first applicants and first respondents were accurately recorded as individual or non-individual (company).

It wasn't feasible within the timescale of the project for NCAT to provide us with the data to enable us to directly compare our coding with the CMS record, and the CMS data we have (reported at Table 6 above) is for all participants in AEOD & OD whereas using the case title we could only code the first applicant or respondent (and that is what is report in Table 7 below and Tables A.2 and A.3 in the Annex).

The two data sources present a slightly different profile of the percentage of cases involving individuals (particularly for AEOD Revenue matters – probably reflecting the multiple parties involved in these – but also for OD Legal and other professions).

Further review is therefore required before we can conclude that CMS participant data is of good quality.

Parties by matter type

While a distinction between *individual* and *company* might be useful for administrative purposes it lacks the detail to understand the type of parties who are clients of AEOD & OD. To demonstrate the value of such information, the Foundation coded all AEOD & OD matters into an entity type, on the basis of the parties details provided in the case title. Due to the limitations of the data provided, this was a coding of matters, not all participants, and therefore differs from the findings presented in Table 5 above.

In AEOD, matters predominantly had individual applicants (84.5% of matters) – see Table 6. A further 7.6% of matters were brought by business (other than health or education related) and 3.9% were brought by applicants comprised of multiple entity types (e.g. an individual and a business). Respondents in AEOD were most often a state or federal government department (76.5%) or local council (6.2%).

In OD the majority of matters also had individual applicants (64.3% of matters), followed by government applicants (22.4%) and other organisations such as professional bodies (10.0%). In two-thirds (66.0%) of matters, the respondents were government, and most of the remainder were individual(s) (32.0%).

Not surprisingly, the type of party varied considerably by and within some lists. For instance, although applicants were predominantly private individuals in AEOD & OD, in *AEOD Revenue* businesses and multiple entities made up 60.2% of applicants while in OD government departments/bodies made up half (49.0%) of the *OD Health professional* list applicants, and professional councils/bodies nearly three-quarters (72.7%) of *OD Legal and other professions* (Table A.3 in Annex).

The type of respondent also varies by list (Table A.4 in Annex). Within the *AEOD Administrative review* list, for example, the Commissioner of Victims' Rights was the respondent for all victim compensation matters and NSW Police for all firearm regulation matters. The most common respondents in GIPA matters were local councils (25.7% of GIPA matters) and NSW Police (16.9% of GIPA matters). A range of NSW government departments (including Department of Planning and Environment; Office of Environment and Heritage; Department of Family and Community Services; Department of Justice; Department of Premier and Cabinet; Department of Education; Department of Industry – or their various predecessors) and other government organisations (including Legal Aid NSW, NSW Fair Trading and the NSW Land and Housing Corporation) make up the remainder of government respondents (Table A.4a in Annex).

Table 6: Types of applicants and respondents in AEOD & OD matters (one type per matter)

LJF code	Applicants		Respondents	
	AEOD N=776	OD N=241	AEOD N=776	OD N=241
	% of matters	% of matters	% of matters	% of matters
Individual(s)	84.5	64.3	2.3	32.0
Representatives of individuals (incl. trusts, guardians, estates)	1.0	0.0	0.0	0.0
Council	0.4	0.0	6.2	0.4
Government dept. (incl. police and health)	0.3	22.4	76.5	66.0
Government owned corp. (incl. utilities & transport)	0.3	0.0	1.5	0.0
NGOs and not-for-profits (excl. education and health)	0.5	0.0	1.5	0.0
Education (incl. schools, day care, universities)	0.1	0.0	1.9	0.0
Health (incl. clinics and aged care)	0.0	0.0	0.6	0.0
Business (incl. retail, manufacturing finance, insurance)	7.6	2.9	4.0	0.4
Representing organisations (incl. professional councils, interest groups and strata)	1.4	10.0	2.1	0.8
Multiple entities of different types	3.9	0.4	3.2	0.4
	100.0	100.0	100.0	100.0

Source: AEOD & OD CMS – all participants in 2015 AEOD & OD finalisations. Includes multiple participants for a matter.

Who is bringing applications against whom?

With information on the entity type of applicants and respondents it is possible to compare who different types of applicants are bringing cases against, and how this varies by list (Table 7).

Across AEOD & OD the most common scenario is an individual applicant bringing a case against a state or commonwealth government respondent (63.2%). This isn't surprising given that much of the business of tribunals is administrative review. Three-quarters (74.7%) of *AEOD Administrative review* matters were of this type and a further 9.3% were individual applicants vs local government respondents. Reviews of decisions under the *Government Information (Public Access) Act 2009* made up a large proportion of these matters, followed by victim compensation and firearm related reviews.

Next most common in AEOD & OD were matters involving a business applicant and the state/commonwealth government as respondent (6.3% of all matters). This was most common in *AEOD Revenue*, where 44.6% of matters were brought by a business against the government and a further 29.5% by an individual against the government (in this case

the Chief Commissioner of State Revenue). The remainder were predominantly multiple entity type applicants, also against the government.⁵

Although individuals were almost always the applicant in the *AEOD Equal opportunity* matters, the list shows the most variation in the mix of respondents, which while most commonly were government (33.8% of matters), also included, for instance, (non-health or education related) business (18.6%); representational bodies (10.3%); other individuals (10.3%); and health or education related organisations (9.7%).

In *OD Health professionals*, half (50.0%) of matters were brought by an individual against a government body. The latter included a range of commonwealth and state bodies such as the Midwifery Board of Australia and the Medical Council of NSW. The second most frequent type of action was the NSW Health Care Complaints Commission (HCCC) – a government body – bringing applications against individual health professionals.

In *OD Legal and other professions*, the representational bodies bringing cases against an individual (69.7% of matters) were the Law Society of NSW and the NSW Bar Association. The government bodies responding to matters brought by individuals (9.1% of the list) included the Legal Services Commissioner and Building Professionals Board.

Table 7: Who brought applications against whom in AEOD & OD matters finalised in 2015

List	Most frequent type of action		Second most frequent type of action		
	N		% of list	% of list	
AEOD Administrative	367	Individual vs Government	74.7	Individual vs Local council	9.3
AEOD Community services	152	Individual vs Government	89.5	Individual vs NGO/not-for-profit	6.6
AEOD Equal opportunity	145	Individual vs Government	33.8	Individual vs Business	18.6
AEOD Revenue	112	Business vs Government	44.6	Individual vs Government	29.5
OD Administrative review	110	Individual vs Government	90.0	Business vs Government	6.4
OD Health professionals	98	Individual vs Government	50.0	Government vs Individual	48.0
OD Legal and other professions	33	Representational bodies vs Individual	69.7	Individual vs Government	9.1
All	101	Individual vs Government	63.2	Business vs Government	6.3

Source: AEOD & OD CMS and LJJ coding of matter title of AEOD & OD matters finalised in 2015.

Notes: The full set of entity categories used for this analysis are: Individual; council; State and Commonwealth government depts. and bodies; Representational bodies (incl. professional, interest groups and strata); NGOs and not-for-profits (excl. health and education); Education: private, day care, uni. etc.; Health: business & NGO (incl. clinics and aged care); Representatives of individuals (incl. trusts, guardians, estates); Business (incl. finance, insurance); Multiple entities of different types.

⁵ The Foundation was not provided with sufficient information to describe the entity type of all applicants/respondents where there were multiple parties.

Improving the quality of information/data about AEOD & OD parties

As recommended in the Local Court report,⁶ to better understand the types of people and organisations using courts and tribunals, more detailed information is required on entity type. One approach is to have applicants or their representative select from a more detailed list of entity types, including, for instance:

- Commonwealth government or agency
- State government or agency
- Local government
- Not-for-profit/non-government organisation
- Business
- Individual
- Other (specify).

Any categories created need to be applicable across all courts and tribunals. But within the categories some courts or tribunals may wish to include more detailed categories. For AEOD & OD we would recommend that the *participant_type* field is expanded to allow for some additional categories to be recorded. Ideally, the relevant data should be collected direct from applicants. Any categories created need to be applicable across all courts and tribunals.

ABN/ACN

Another approach is to use ABN (or ACN) numbers to link organisations to the categories already defined through the Australian Business Register (ABR). This would require that ABN is a compulsory field, correctly completed, for all parties that have an ABN. A limitation of this approach may be that the categories used by the ABR may not match the information needs of the Department of Justice.

Party type or role

In other NCAT divisions, applicants are also assigned to a role type (such as landlord or tenant in CCD) and in some AEOD & OD lists this may provide additional information on the nature of the parties using the Tribunal and their purpose. For example, parties could be asked to declare whether they are applying in the capacity of a private individual, professional, professional organisation or a regulatory or licensing body – in addition to their organisational status as a government body or NGO.

⁶ Forell, S & Mirrlees-Black, C 2016 *Data insights in civil justice: NSW Local Court* Law and Justice Foundation of NSW, Sydney

Type of applicant/respondent

Data quality – very poor

The only information on the types of entities bringing cases to AEOD & OD is the individual/company record on the CMS (which is probably good, see earlier), and although the Foundation was not provided with it, we presume this could be allocated to specific matters.

As far as we are aware, no other information is recorded on the CMS that would allow the identification of types of clients, such as ABN, ACN or even any information on the role of the applicant or respondent, such as body enforcing professional standards or professional requesting review. The lack of this information undermines the value of the data in monitoring the flows into the divisions and limits the capability of the divisions to identify the cause of unexpected variations in work or to plan for the impact of changes in relevant legislation. A better understanding of who is using the Tribunal could also be of value in reviewing the fee charging structure.

4. Are parties represented and by whom?

There is much interest in the impact that representation of parties has on the efficiency with which cases progress and the outcomes achieved. Representation can create a power imbalance where one party is represented and the other is not and can also introduce an unnecessarily adversarial element to the resolution of matters. Lack of representation, however, may be problematic in more complex cases; those which turn on matters of law, and those where a power imbalance already exists given the types of parties involved.

In 1995, what was then the NSW Equal Opportunity Tribunal collected statistics, comparing the progress of matters to the Tribunal when one party was unrepresented with those matters where both parties were represented. The data suggested that when a complainant was unrepresented, matters took twice as long from referral to completion. They required twice as many directions hearings and final hearings took longer to complete.^{7 8}

Tribunals are designed to be relatively accessible to the lay person, and NCAT actively encourages parties to appear without representation, noting on its website (with a link from the AEOD *Preparing for your hearing* page)⁹ that:

- NCAT is designed for people to represent themselves at hearing. This provides a low cost, accessible and efficient means of resolving your dispute.
- At NCAT parties are encouraged to conduct your own case without representation. Although this may seem daunting, you can expect to have your matter heard and determined fairly and according to law.
- Representing yourself also has its benefits by giving you direct control on how your case is presented to NCAT. With the right preparation and organisation, you can be your own best advocate at the hearing.

However, in practice within AEOD & OD, parties in most types of matter can give notice that they will be represented either by someone who is or is not legally qualified and government organisations, for instance, are necessarily 'represented' as there is no in person way for them to appear even where the representative is not a lawyer, but, an attending officer from an organisation that regularly deals with such matters, their role may in practice be similar to that of a lawyer. We assess here how the CMS captures information on legal and other types of representation.

⁷ Mervat Rebehy, M. 2000, Unrepresented parties and the Equal Opportunity Tribunal: a survey of tribunals and recommendations for change, Law and Justice Foundation of NSW, Sydney.

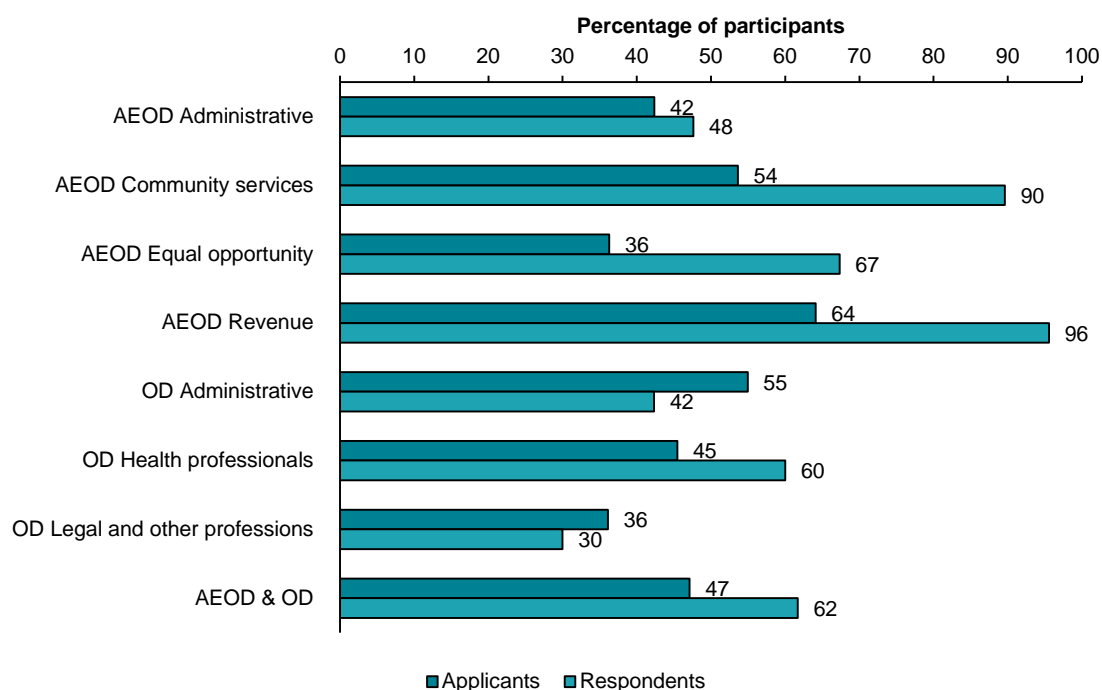
⁸ As NCAT was not able to provide the relevant data to the timescale of the project it was not possible to repeat this analysis here.

⁹ As at August 2016.

On the CMS information about *representative* or *agent* is linked to each party within the case. The CMS records the name and contact details for the representative but not the type of representative (apart from what can be gleaned from their name or address). The representative/agent field isn't required to be completed for those organisations that are necessarily using their own, possibly legally qualified, officers to appear on their behalf (such as the HCCC).

Figure 3 shows the percentage of applicants and respondents that had information about an agent recorded against them. It is not possible to tell from the CMS whether representation status varied during the case but 47.1% of AEOD & OD applicants had some type of representative recorded and 61.7% of respondents (Table A.5).

Figure 3: Percentage of applicants and respondents recorded on the CMS as represented by an agent



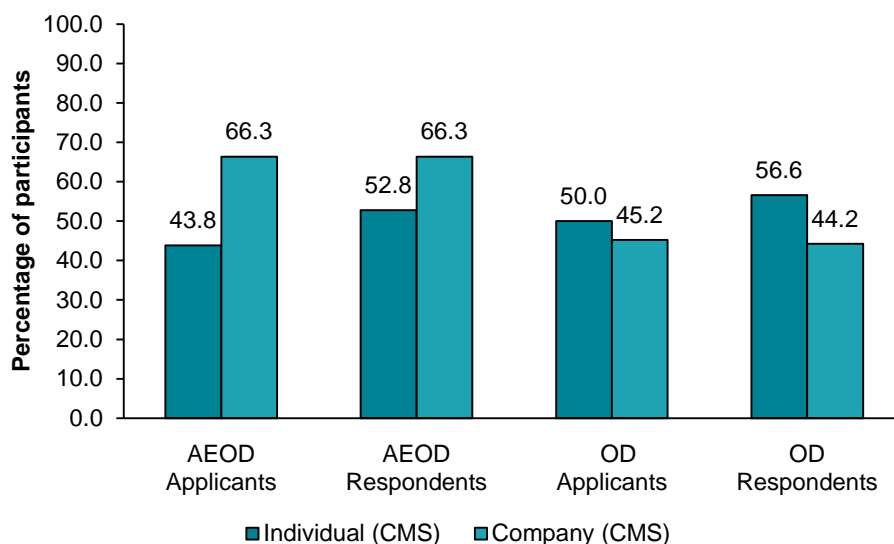
Source: AEOD & OD CMS data on participants in all matters finalised in 2015. Matters may have more than one applicant/respondent.

Applicants (64.1%) and respondents (95.5%) in *AEOD Revenue* matters were the most likely to have a representative recorded. Applicants (36.1%) and respondents (30.0%) in *OD Legal and other professions* were the least likely – perhaps because lawyers represent themselves and professional bodies use in-house lawyers that tend to be recorded on the CMS as the party, rather than as the party’s representative.

Figure 4 indicates that AEOD applicants and respondents that are organisations (recorded as *company* in the CMS) were more likely to be recorded as having a representative than individuals. In OD this picture is reversed. However, the Foundation’s review of 100 casefiles indicated that where an organisation is represented by in-house solicitors or counsel, these may be recorded in the CMS as a party rather than a representative.

Relying on the relevant CMS field may therefore under-count the extent to which organisations are legally represented. The percentage of organisations that were represented in both AEOD and OD could be higher if counsel and in-house officers (including in-house lawyers) were routinely recorded as *agents/representatives* in the CMS. This is discussed further in section 6 on attendance at hearings.

Figure 4: Percentage of applicants and respondents represented by individual/company status on the AEOD & OD CMS



Source: AEOD & OD CMS data on participants in all matters finalised in 2015. Matters may have more than one applicant/respondent.

There was some variation by list, although the number of matters with the different types of applicant and respondent is too small for some lists to draw conclusions (Table A.6 in Annex Tables).

Representation

Data quality – limited

As far as we can tell, on the limited information provided to us, where the legal representative is from an organisation other than the parties this is reasonably well recorded on the CMS. However, we do not recommend using the CMS data as an indication of the extent of self-representation, as where participants are represented by an in-house lawyer or officer our casefile analysis indicates that these representatives are not generally recorded as agents on the CMS. The CMS also does not facilitate distinguishing between the use of legally qualified and other representatives. CMS data is therefore not a good indicator of the extent to which parties to matters in AEOD & OD are legally, or otherwise, represented.

5. How do matters progress to finalisation?

First events

When a new matter is entered on to the CMS it is listed for some type of activity. What this is depends on the relevant procedure for matters in that list.

First listings are most commonly directions hearings, planning meetings and case conferences – nearly three-quarters (73.0%) of matters in AEOD & OD had one of these as their first listing (Table 8). At these initial meetings the Tribunal Member meets with the applicant and the respondent to discuss how the matter should proceed and can give directions telling each party what they have to do to ensure the matter can progress.¹⁰

The first listing may also be to consider an application for an interim or interlocutory order, such as a stay on the original decision until the matter is heard. This is most common in the *AEOD Community services* and *OD Administrative review* lists (Table 8).

A hearing, on the other hand, is the opportunity for the parties to present evidence to the Tribunal Member(s) and for a decision to be made, or reserved for later determination. The matter can be finalised prior to the first listed activity if the parties reach agreement, or the applicant withdraws or fails to attend. Only 10% of cases went straight to a hearing of some type. The progress of cases will in part reflect Divisional listing rules. *AEOD Equal opportunity* matters were most likely to have some type of hearing recorded as their first listing (25%) because a leave hearing is required to determine whether these matters can proceed. Not all the listing events recorded on the CMS involve the parties to the matter, such as the management of the file, return of summons or dismissal following withdrawal of the application – in total these amounted to 5.9% of first listings/events. Just over half of these (3.3% of all first listings) were dismissals.

¹⁰ NSW Civil & Administrative Tribunal (NCAT) Procedure Manual, 2014 – Administrative and Equal Opportunity Division and Occupational Division (internal document).

Table 8: Type of activity at first listing event by AEOD & OD lists, for matters finalised in 2015

	First listing	Directions/ case conference/planning	Application for interim or interlocutory order	Hearing/ leave or preliminary hearing	Other activity
	N	% of matters	% of matters	% of matters	% of matters
AEOD	767	71.7	11.6	11.9	4.8
AEOD Administrative review	361	70.9	6.9	15.5	6.6
AEOD Community services	152	60.5	36.8	0.0	2.6
AEOD Equal opportunity	142	66.9	3.5	24.6	4.9
AEOD Revenue	112	95.5	2.7	0.0	1.8
OD	241	77.2	11.6	2.1	9.1
OD Administrative review	110	66.4	22.7	3.6	7.3
OD Health professionals	98	85.7	3.1	1.0	10.2
OD Legal and other professions	33	87.9	0.0	0.0	12.1
All AEOD & OD	1,008	73.0	11.6	9.5	5.9

Source: AEOD & OD CMS listing data: 14 matters with a listing date prior to lodgement date are excluded, 9 matters had no first listing date.

Note: Other activity includes: dismissal, decision, management, mandatory refusal of firearms license, return of summons.

Number of listings and hearings

Data quality – good

In our review of 100 AEOD & OD casefiles we counted the number of hearings (including dismissal and decision hearings), case conferences, mediations, directions, planning meetings, applications for interim/interlocutory orders and returns of summons and compared this to the number of hearings recorded in the CMS for that matter. The match was very good with 89 of the 100 within +/- 1 of the count and a further 9 within +/- 2 of the number recorded on the CMS.

First orders

The outcome of a listing is captured as an order in the CMS. Table 9 cross-tabulates the first listing event with the first order type. Out of the 1,008 matters for which first listing information is available, the date of the first order either pre-dated (n=7) or post-dated the first listing date (n=35) in a few cases. A review of the first listing events with a matching first order shows that the most common outcome at first listing is an adjournment (81.2% of first listing outcomes).

Only one in 10 listings for applications for interim or interlocutory orders resulted in such an order, as most were adjourned (72.6%). However, when the first listing was for a hearing/leave hearing, two-thirds of the time (in 67.9% of matters) this resulted in some

type of order or decision, including issued and reserved decisions. There were a few withdrawals/non-appearance outcomes at hearing but most are treated as an administrative activity and separately listed as ‘dismissal’ in the CMS – these make up nearly two-thirds (63.6%) of our category ‘other listed activity’.

Table 9: Type of first listing event by type of first order for AEOD & OD matters finalised in 2015

FIRST LISTING TYPE:	N	FIRST ORDER TYPE		
		Adjournment % of first orders	Decision, order or other event % of first orders	Dismissal, withdrawn and non- appearance % of first orders
Directions/conference/meeting	721	93.6	3.1	3.3
Application for interim/interlocutory order	117	72.6	21.4	6.0
Hearing / leave hearing	84	26.2	64.3	9.5
Other listed activity	44	4.5	31.8	63.6
All listings with a date matching the first order date	966	81.2	11.9	6.9

Source: AEOD & OD CMS Listings and Orders data for matters finalised in 2015 with a first listing (9 matters missing). Also excluded are 7 matters with a first order pre-dating the first listing and 35 matters with a first order post-dating the first listing.

Notes: Decision, order or other event includes: Any decision reserved, issued or described, any order made at or after hearing, and returns of summons.

Other listed activity includes: Dismissal, decision, management, mandatory refusal of firearms license, return of summons.

Number of adjournments

To compare the progress of cases during their time at the Tribunal we looked at the number of adjournments issued (Table 10). This shows that adjournments were far more common in some lists (such as *OD Legal and other professions*, and *AEOD Revenue*) than others. More than a quarter of *AEOD Equal opportunity* and *AEOD Administrative* matters had no adjournments recorded against them.

Table 10: Number of adjournments in AEOD and OD lists for matters finalised in 2015

	Matters	Mean	None	1	2 or 3	4 or more
	N	number	% of matters	% of matters	% of matters	% of matters
AEOD	776	2.4	20.2	27.6	31.6	20.6
AEOD Administrative review	367	1.7	25.6	31.3	30.8	12.3
AEOD Community services	152	2.2	8.6	33.6	44.1	13.8
AEOD Equal opportunity	145	2.9	30.3	14.5	19.3	35.9
AEOD Revenue	112	4.4	5.4	24.1	33.0	37.5
OD	241	2.5	9.5	30.3	37.8	22.4
OD Administrative review	110	2.1	11.8	38.2	33.6	16.4
OD Health professionals	98	2.4	9.2	28.6	39.8	22.4
OD Legal and other professions	33	4.3	3.0	9.1	45.5	42.4
All AEOD & OD	1,017	2.4	17.7	28.2	33.0	21.0

Source: AEOD & OD CMS order data for matters finalised in 2015; 3 *AEOD Equal opportunity* matters have no associated orders, so have been set to no adjournments in this table.

Number of all orders during a case

Another indicator of progress is the total number of orders recorded per matter. In AEOD & OD 4,664 orders were recorded for 1,014 matters finalised in 2015. A review of the order description field does not suggest a particularly tidy distinction between final orders and interim or interlocutory orders, with many types recorded against both (Table A.7 in Table Annex). The 1,064 (21.7% of orders) that were identified in the CMS as final orders are considered further in section 7 of this report.

The bulk of the remaining orders (2,484 or 53.3% of orders) were adjournments. Also common were orders to the effect that a decision or reason had been reserved (n=631) or issued (n=109) and the recording of return of summons access (n=251). The number of orders per matter is shown in Table 11 – more than half of matters in all list groups other than *AEOD Administrative* had four or more orders, giving an average of 4.6 orders per matter.

Table 11: Number of orders for AEOD & OD matters finalised in 2015, by list

	Matters	Average number of orders	1 order	2 orders	3 orders	4 or more orders
	N	mean	% of matters	% of matters	% of matters	% of matters
AEOD	773	4.5	10.7	20.8	19.7	48.8
AEOD Administrative	367	3.6	11.2	24.3	25.3	39.2
AEOD Community services	152	4.4	7.9	17.1	16.4	58.6
AEOD Equal opportunity	142	5.2	17.6	15.5	12.7	54.2
AEOD Revenue	112	6.4	4.5	21.4	14.3	59.8
OD	241	5.0	8.7	14.1	12.4	64.7
OD Administrative	110	4.0	10.0	17.3	19.1	53.6
OD Health professionals	98	5.3	9.2	13.3	7.1	70.4
OD Legal and other professions	33	7.9	3.0	6.1	6.1	84.8
All AEOD & OD	1,014	4.6	10.3	19.2	17.9	52.6

Source: AEOD & OD CMS order data for matters finalised in 2015: 3 matters have no associated orders.

Note: A full list of the orders covered in this table is listed in Table A.7 in the Annex Tables.

Not surprisingly, therefore, final orders were a minority of all orders (22.8%) – particularly in the *OD Legal and other professions* list (14.9%) and *AEOD Revenue* (16.3%) (Table 12).

Table 12: The percentage of orders recorded as final orders for AEOD & OD matters finalised in 2015

	Matters	Not recorded as final order	Recorded as final order
	N	% of orders	% of orders
AEOD	773	76.5	23.5
AEOD Administrative	367	71.2	28.8
AEOD Community services	152	75.2	24.8
AEOD Equal opportunity	142	80.2	19.8
AEOD Revenue	112	83.7	16.3
OD	241	79.1	20.9
OD Administrative	110	74.8	25.2
OD Health professionals	98	79.8	20.2
OD Legal and other professions	33	85.1	14.9
All AEOD & OD	1,014	77.2	22.8

Source: AEOD & OD CMS data for all matters finalised in 2015 for which at least one order was made.

Notes: Uses the CMS record of whether the order is a final order or not. Most of these were procedural, such as adjournments, reserved decisions and returns of summonses, but some were outcome orders.

Orders

Data quality – could be improved

The order data field on the CMS is used to capture both interim/interlocutory activity and final orders. This can make it challenging to identify the outcome for the substantive matter. Although there is a final order flag, a small number of matters did not have a final order flagged, and a few had more than one (more than one final outcome is allowed), and some apparently final outcomes (such as dismissed; affirmed; withdrawn-dismissed) were not always flagged as a final outcome. In the case of dismissal this could be because it related to a subsidiary point, such as a cost application. Additional codes could assist with identifying these other outcomes.

6. Attendance at hearings and other listings

No information is recorded on the CMS regarding who actually attended a hearing or other type of listing (which include leave hearings, directions hearings, preliminary hearings, planning meetings, mediation and case conferences). To assess the feasibility and value of recording this we therefore reviewed the paper casefiles. The information reported here is largely drawn from the hearing forms found in these paper files, which are available for most types of hearings (hearings, decision hearings and some dismissal hearings) and some other types of listing (case conference, planning meeting and mediation).¹¹

These forms ask who is *appearing* for the applicant and who is *appearing* for the respondent. Commonly a name is the only information recorded. Unless extra detail (e.g. Ms Smith, *Counsel*) is added, it is not clear from the form whether the person appearing is the party; a representative of the party, for instance an officer from a relevant department or body; or a legal representative. This information does not appear to be transferred to the CMS.

Overall, the level of attendance is generally high. According to the 100 casefiles reviewed, in only 4 matters neither the applicant nor the respondent attended any type of hearing (including dismissal, directions, leave, decision and cost hearings). Attendance by the applicant or respondent was not clear in a further 7 and 5 matters respectively (Table 13).

Those attending do so in a range of capacities. In Table 13, where more than one attendee was recorded on the casefile, legal representation was prioritised over other types of representative, with counsel prioritised over solicitor – and both over non-legal representatives. This means that if a solicitor attended at least one hearing, the highest level of attendance is recorded as *solicitor*. However, if a barrister was used in at least one hearing (with or without a solicitor or in-house lawyer or officer), the highest level of attendance is recorded as *counsel*.

In this sample of 100 cases, for instance, half the applicants (n=50) had no formal representation at any hearings, and attended in person or had a family member or friend speak on their behalf. Applicants were represented in at least one hearing by a legal or other type of independent or in-house representative in 39 of the 100 matters.

In contrast, respondents were represented in at least one hearing in 85 of the 100 matters and had no formal representation, attending in person or being represented by a family member in 6 of the 100 matters.

¹¹ Information was also drawn from correspondence and from information on AEOD & OD CMS and the files about the representative.

That noted, 24 respondents (and 4 applicants) were represented by an officer of their organisation or an in-house lawyer. 61 respondents were represented by an independent lawyer (often the Crown Solicitor’s Office in the case of state government agencies) or counsel in at least one hearing, compared to 34 of the applicants.

Table 13: Attendance by parties in AEOD & OD matters, casefile sample of matters finalised in 2015

Decreasing prioritised level of attendance	Applicant	Respondent
	N	N
Counsel*	6	13
Independent solicitor [#]	28	48
Agent	1	0
Officer/in-house legal [^]	4	24
In person/family/friend only	50	6
No attendance	4	4
Not clear from case file	7	5
Total matters	100	100

Source: casefile analysis of 100 AEOD & OD files lodged in 2015.

Notes: [^]Includes 8 matters in which it was not clear whether person attending for the respondent was an officer or an in-house legal officer. [#]Includes some matters where there were in-house and external solicitors involved in the matter. *Counsel usually instructed by either in-house or independent solicitor.

Total includes two matters where attendance was not required but representation status was indicated and included above.

Because it was feasible from the sample of casefiles to identify company officers, agents and in-house lawyers, the casefiles provide a different picture of representation than the CMS (Table 14). In the casefile sample we could identify the type of representative for 86% of organisations (applicants and respondents): 14% were represented by a barrister, 45% by a solicitor and 27% by an officer from the organisation, including in-house lawyers. In contrast, a third of individuals had formal representation.

Table 14: Representation at hearings in AEOD & OD for organisations and individual parties, from a sample of 100 cases finalised in 2015

Prioritised attendance	Organisations (applicants and respondents)	Individuals (applicants and respondents)
	N=112	N=88
	%	%
Counsel*	14.3	3.4
Solicitor only#	44.6	29.5
Officer/agent/in-house legal^	26.8	0.0
In person/family/friend	1.8 [§]	60.2
No person attended	4.5	3.4
Cannot tell from file	8.0	3.4

Source: case file analysis of 100 AEOD and OD files lodged in 2015.

Notes: ^Includes 8 matters in which it was not clear whether person attending for the respondent was an officer or an in-house legal officer.

#Includes some matters where there were in-house and external solicitors.

*Counsel usually instructed by either in-house or independent solicitor.

§ These two matters had attendees who were members of a community organisation.

Total includes two matters where attendance was not required but representation status was indicated and included above.

A comparison of the aggregate representation rates for AEOD & OD as recorded on the CMS with the sample case file count shows some marked differences (Table 15). As we were not provided with the necessary information to link representation to CMS matters this comparison is at an aggregate rather than matter level which will explain some of the differences. However, the higher representation rate for respondents will probably reflect that we could include representation by organisational officers, agents and in-house lawyers in our casefile analysis.

Table 15: Percentage of applicants and respondents represented in at least one hearing, from a sample of 100 cases

	Applicants		Respondents	
	Casefiles (N=100)	CMS (N=1029)	Casefiles (N=100)	CMS (N=1055)
	%	%	%	%
AEOD	38.2	46.7	94.3	65.7
OD	68.0	48.4	84.0	48.1
AEOD & OD	46.2	47.1	91.6	61.7

Source: casefile analysis of 100 AEOD & OD files lodged in 2015 and CMS data for participants in matters finalised in 2015.

Note: Legal representation for case files includes matters in which a legal practitioner (in-house, independent solicitor, barrister) was identified from the file as attending at least one hearing. There are some other matters which may include an in-house lawyer but it is not clear from the file.

Attendance at hearings and other listings

Data quality – limited

Although limited information about attendance of the parties and their representatives is recorded on the paper hearing record sheet, this varies in quality and is not transferred onto the CMS. Without this it is difficult to measure the extent to which parties are actively involved in their cases. Although the CMS does record whether a participant is represented by an agent, this information is not linked to each hearing or other listing.

Ideally, information about who attends hearings or other listings, and in what capacity, would be attached to information about the progress of matters. This would allow an analysis of the impact of attendee type on the number of directions hearings or planning meetings required, the length of time matters take to complete, and potentially whether – controlling for case related factors – representation has an impact on the outcomes achieved.

We would therefore recommend that the hearings and other listings sheets are amended to separately record the following information and that this information is transferred to the management information system when the CMS is replaced:

- a) whether each of the parties attended, or specify if they did not attend
- b) the role/title of the party (individual, officer of org, in-house lawyer)
- c) whether each of the parties was represented, or specify they were not
- d) type of representative (lawyer, agent, advocate, other)

7. How are matters finalised or resolved and how are outcomes related to orders sought?

NCAT's role is generally to assist the parties in coming to agreement or to determine the just and fair outcome – in whoever's favour that might be.¹² The applicant may achieve the outcomes they sought, or even if they do not, the parties may come to an agreement and/or compromise.

Limitations of AEOD & OD data in identifying outcomes

The options for finalising a matter vary considerably by each of the AEOD and OD lists: over 20 different types of outcome were identified for matters finalised in AEOD or OD in 2015. For the purpose of reporting here, these have been grouped into nine categories to attempt to identify the effect of the decision that was made. This approach is, however, limited due to:

- some lack of consistency in the application of the final order flag
- the outcome from the parties' perspective not always being recorded in a reportable format
- the description of the final order not always indicating whether (or the extent to which) the order(s) sought had been achieved
- the necessity of knowing, for some types of matter, the respective roles of the applicant and respondent to determine the effect of the decision that was made
- the unknown degree to which agreements for matters finalising by settlement/consent meet the order(s) sought and the extent to which withdrawals (without settlement) include private settlements

Identifying the final order

The AEOD & OD CMS includes a field to identify final orders (the final order flag), but in practice this can be used more than once within a matter as there may be more than one order made and it is not solely used for orders that indicated a final outcome (see the first column of Table A7, Annex Tables).¹³ To identify how matters finalised, it was therefore necessary to use the date of the finalisation of the case in conjunction with the description of the orders made on that date, and where there was more than one final order, selecting

¹² In *OD Discipline* matters there is also a public interest element: protecting members of the public from lawyers and health practitioners found guilty of misconduct.

¹³ In total, there were 1,064 final orders flagged for the 1,014 matters for which order data was provided. At least one final order was identified for each of 1,012 matters.

that which was most useful in understanding the effect of the decision that was made from the parties' perspective.

Lack of information on outcome

As the CMS is primarily an administrative tool, the outcome, from the parties' perspective at least, is not necessarily recorded at all. For these matters, the final order was recorded as *decision issued*, *written reasons issued*, *orders made* and *orders-other*, providing insufficient information about in whose favour the decision had been made. This was the case for 12.4% of matters in AEOD (Table 16) and 16.2% of those in OD (Table 17).

The type of order recorded

While many types of final order indicate the decision made in relation to what was sought (such as [original] decision affirmed, application granted, application refused, [original] decision varied), others record an outcome that cannot be used to identify whether the applicant achieved what they sought to do, without further information about this was. Although this will usually be recorded on application forms it is not transferred to the CMS in a reportable format. Examples of these types of outcome are *conditions imposed* and *practising certificate suspended*, where our review of casefiles suggested that these can include a variation of the original decision which the applicant had applied to have reviewed. The use of an additional *decision varied* final order would seem warranted in such matters.

The role of the applicant

For certain types of OD matter, knowing the role of the applicant is necessary to determine the effect of the decision that was made, but this is not currently recorded on the CMS (see section 3 of this report). A *practising certificate suspended* final order for a licensing/regulatory body applicant probably indicates that the orders sought were made whereas the same final order for an individual licensee/practitioner seeking to review a decision made by such an external body, would suggest they did not achieve what they set out to do. However, our review of casefiles, suggested this was not necessarily the case where some variation to the original decision had been made (see previous paragraph).

Settlement and consent

Although the Tribunal records consent orders and identifies matters that have been withdrawn due to settlement this does not necessarily mean that the applicant achieved any of what they set out to do. Applications to the *AEOD Revenue* list were the most likely to result in consent orders or settlement (occurring in a third of all *AEOD Revenue* matters). A further issue is that applicants are not required to provide a reason for withdrawing a matter, and some may do so having reached private agreement with the respondent that the Tribunal is not aware of. So some outcomes recorded as withdrawals (without settlement) may in fact be the result of an agreement between the parties.

Outcomes in AEOD

Table 16 describes the main types of outcomes achieved in AEOD. Bearing in mind that in 12.4% of cases there was insufficient information to describe the outcome, the most common outcome in AEOD was that the applicant withdrew or failed to attend a hearing (33.2% of AEOD matters) However, it may be that settlement was reached but not reported to the Tribunal in some of these. The rate of withdrawal was similar across lists, though slightly higher in *AEOD Revenue* (39.3%).

In 29.2% of matters, cases were recorded as dismissed by the Tribunal for a reason other than non-appearance (including that the original decision was affirmed, or the case could not progress). The rate of recorded dismissal was highest in the *AEOD Equal opportunity* (35.1%) and *AEOD Community* (34.2%) lists.

Applications were recorded as granted by the Tribunal, wholly or in part, in 11.5% of AEOD matters finalised in 2015. Such decisions most commonly included those enabling the applicant not to be treated as disqualified from working with children or remitting the original decision back to the decision-maker for reconsideration, or a variation/set aside of the original decision.

The parties were recorded as reaching agreement through settlement or consent orders in 13.7% of AEOD matters finalised in 2015. The rate of agreement was highest in the *AEOD Revenue* (33.0%) and *AEOD Equal opportunity* (22.8%) lists.

Table 16: Outcomes for AEOD matters finalised in 2015

	AEOD Administrative review N=367	AEOD Community services N=152	AEOD Equal opportunity N=145	AEOD Revenue N=112	All AEOD N=776
	%	%	%	%	%
Withdrawn [§] or dismissed for non-appearance	31.9	33.6	31.7	39.3	33.2
Dismissed: ^{§§}	7.1	11.2	17.9	2.7	9.3
Affirmed	18.0	18.4	0.0	16.1	14.4
Leave, application or appeal not granted or no jurisdiction	2.7	4.6	17.2	0.9	5.5
Remitted or decision varied or set aside	13.4	13.8	0.0	4.5	9.7
Leave, application, stay or appeal granted	0.8	5.3	0.7	0.0	1.5
Reprimand/caution #	0.3	0.0	0.7	0.0	0.3
Consent orders or settled-dismissed	9.0	2.0	22.8	33.0	13.7
Insufficient information on outcome ^	16.9	11.2	9.0	3.6	12.4
Total	100.0	100.0	100.0	100.0	100.0

Source: AEOD & OD CMS – matters finalised in 2015.

Notes: § Includes a small number (1.9%) of withdrawal flagged as by consent.

§ § Includes a small number (2%) of dismissals flagged as by consent (see Table A.7, in Annex).

In the AEOD lists, there were reprimands/cautions recorded in relation to matters under the Anti-Discrimination Act and Privacy and Personal Information Protection Act. One of these was an order for the respondent to refrain from publication of material the other required the respondent to make a written apology. This group of orders will not be applicable for most AEOD matters.^ Includes 'Decision issued' 'Written reasons issued' 'Orders made' 'Orders – other' 'Orders after hearing'.

Outcomes in OD

The recorded outcomes for matters finalised in OD in 2015 are shown in Table 17. A quarter were recorded as withdrawn or dismissed for non-appearance (24.9%). The highest rate of withdrawal was in the *OD Health professionals* list (30.6%).

The matter was recorded as dismissed for some other reason (including that the original decision was affirmed, or the case could not progress for some other reason) in 22.0% of matters. This type of outcome was most common in the *OD Administrative review* list (36.4%).

The outcome was recorded as some form of imposition on a licensee or practitioner, such as a fine, suspension or conditions on their registration in 21.2% of OD matters finalised in 2015. Most of these were probably an outcome in favour of the licensing/regulatory body.¹⁴ In the *OD Legal and other professions* list 54.5% had this outcome recorded reflecting the context that 70% of matters in this list were actions by a representing group such as a professional regulatory council against an individual.¹⁵

Matters were resolved via agreement between the parties in 5.0% of OD matters finalised in 2015. This relatively low rate will reflect the type of matters dealt with in this Division.

¹⁴ In 2015, 92% of these matters involved an organisational applicant and an individual respondent.

¹⁵ Nearly 6 out of 10 legal and health professional discipline matters (a subset of the two professional lists) the outcome was recorded as a reprimand/fine etc. but the outcome was not recorded in the CMS for 30.6% of these matters.

Table 17: Outcomes for OD matters finalised in 2015

	OD Administrative review	OD Health professionals	OD Legal and other professions	All OD
	N=110	N=98	N=33	N=241
	%	%	%	%
Withdrawn or dismissed for non-appearance	24.5	30.6	9.1	24.9
Dismissed	6.4	11.2	0.0	7.5
Affirmed	27.3	1.0	3.0	13.3
Leave, application or appeal not granted or no jurisdiction	2.7	0.0	0.0	1.2
Remitted or decision varied or set aside	19.1	1.0	0.0	9.1
Leave, application or appeal granted	0.9	3.1	0.0	1.7
Reprimand, fine, removal from roll/register, suspended, conditions	3.6	29.6	54.5	21.2
Consent orders or settled-dismissed	7.3	1.0	9.1	5.0
Insufficient information on outcome [^]	8.2	22.4	24.2	16.2
Total	100.0	100.0	100.0	100.0

Source: AEOD & OD CMS – matters finalised in 2015.

Notes: [^] Includes 'Decision issued' 'Written reasons issued' 'Orders made' 'Orders – other' 'Orders after hearing'.

Outcomes

Data quality – could be improved

Of some concern is that in our sample of 100 casefiles, 20 had an outcome that differed in some way from that recorded on the CMS. However, for the most part (n=17) this was because the terms of the decision had not been recorded on the CMS, only that it had been issued, or orders had been made. This was in line with the percentage of cases on the CMS without the type of final outcome captured. There were three cases where the decision recorded on the CMS did not match that on the hearing outcome sheet. We also came across a couple of decisions published online that differed from those recorded on the CMS. While these are small numbers, they indicate that there is room for improvement in transcribing decisions.

We would recommend that, if feasible, Tribunal Members are responsible for entering or confirming that the outcome entered on the CMS is correct, and that it describes the final outcome from the parties perspective rather than an administrative outcome (such as decision issued).

We would support retention of the capture of all orders relating to a case on the CMS as long as the date of finalisation is well recorded and correctly applied to the relevant orders. The final order flag should be used to identify the outcome of the substantive matter only.

To enable the reporting of the extent to which OD applicants achieve what they set out to do and/or in whose benefit decisions are made we additionally suggest that the role of the applicant is captured on the CMS, to facilitate distinguishing between matters brought by bodies seeking to impose restrictions/penalties and those by licensees/practitioners challenging external decisions.

8. How long do matters take to finalise?

When an application is made to AEOD & OD, the details are entered onto the CMS by registry staff, including the date of lodgement. To manage the progress of the case, various other dates are also recorded such as the first listing event, the date of any orders made (including where a decision is reserved or issued).

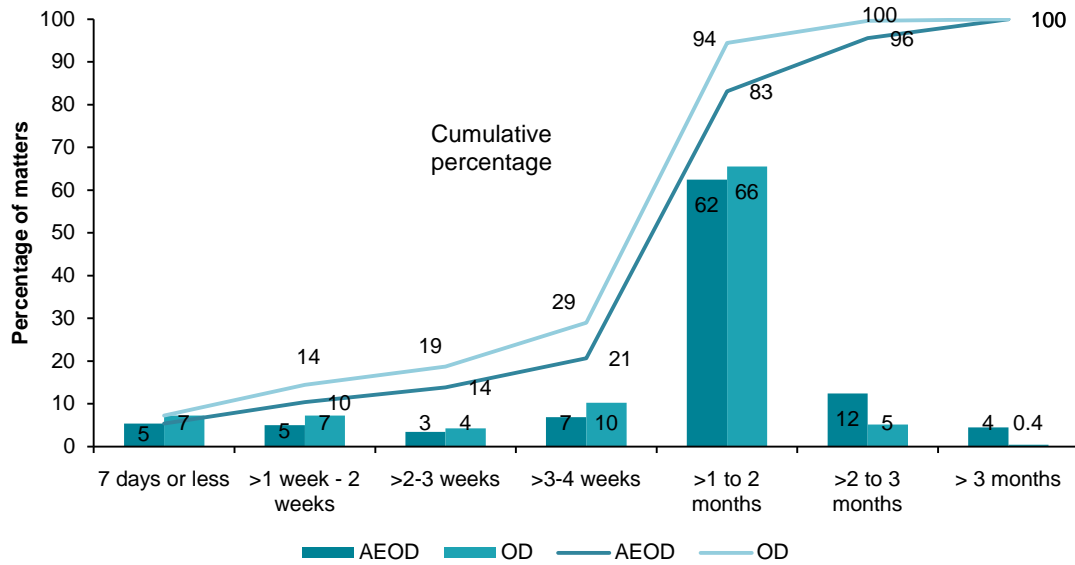
Although many case related factors will determine the time it takes for a case to reach a final outcome, time to first listing event is determined by the Tribunal. In considering how long matters take to finalise, therefore, we first look at time to first listing event, then the total time from lodgement to finalisation. Finally, we consider some of factors that have some relationship to the overall time a case takes.

Time to first listing

How long a matter takes to be listed for initial activity after lodgement reflects any prescribed time limits for first hearings and/or the frequency with which the relevant panel sits. For most lists, the Divisional guidelines require listing a case for first hearing 4 weeks (28 days) after lodgement. However, as panels usually only sit on specified days of the week, some only once a month, in practice the first listing may be sooner or later than this.

AEOD & OD CMS data suggests that about 28.2% of matters have a first listing within 30 calendar days of lodgement and most of the rest proceed shortly after, with 92.1% having a first listing within two months of lodgement. The data suggests progress was slightly slower in AEOD with 20.5% listed within a month and 82.3% within two months (Figure 5, Table 18).

Figure 5 Time taken from lodgement to first listing for AEOD & OD matters



Not surprisingly, given that the procedural and hearing arrangements differ between lists, so does the time from lodgement to first listing. For example, the *AEOD Equal opportunity* list usually sits four times a month on a specified day of the week and *OD Health Practitioners* between once a fortnight and once a month, depending on demand. Some specific matters are required to be listed more quickly – matters relating to the suspension of a firearms licence,¹⁶ for instance, are given a listing date of 14 or 21 days.

¹⁶ NSW Civil & Administrative Tribunal (NCAT) Procedure Manual, 2014 – Administrative and Equal Opportunity Division and Occupational Division (internal document).

Table 18: Time taken from lodgement to first listing by AEOD & OD list type (cumulative percentage)

	First listings N	Average days	Cumulative		
			Within 1 month %	Within 2 months %	Within 3 months %
AEOD	759	49	20.7	83.1	95.5
AEOD Administrative	357	59	14.0	76.8	93.0
AEOD Community services	149	31	51.7	91.9	99.3
AEOD Equal opportunity	141	47	10.6	83.7	95.7
AEOD Revenue	112	40	15.2	96.4	100.0
OD	235	37	28.9	94.5	99.6
OD Administrative	109	32	36.7	98.2	100.0
OD Health professionals	95	40	26.3	93.7	98.9
OD Legal and other professions	31	43	19.4	83.9	100.0
All AEOD and OD	994	46	23.1	86.4	96.7

Source: AEOD& OD CMS – date of lodgement and date of finalisation for matters finalised in 2015. 14 matters with a listing date prior to lodgement date are excluded. 9 matters had no first listing date.

The time to first listing event also varies according to the type of event (Table 19). Applications for interim or interlocutory orders were the earliest events, with virtually all (99.1%) scheduled within a month of application. Only 12.9% of directions, conferences or other meetings were scheduled for within the first month, but most (88.3%) had a date within two months of application. The longest time to a first event were for those matters listed for a hearing of some type – just 3.6% had a date within the first month, but two-thirds (65.5%) had a date within two months.

Table 19: Time to first listing by type of listing activity

FIRST LISTING TYPE:	First listings N	Average days	Cumulative per cent		
			Within 1 month %	Within 2 months %	Within 3 months %
Directions/conference/meeting	721	44	12.9	88.3	98.5
Application for interim/interlocutory order	117	9	99.1	100.0	100.0
Hearing/leave hearing	84	59	3.6	65.5	91.7
Other listed activity	44	54	29.5	72.7	86.4
All listings with a date matching the first order date	966	42	23.3	87.1	97.5

Source: AEOD & OD CMS – Listings and Orders data for matters finalised in 2015 with a first listing (9 matters missing). Also excluded are matters where the first order pre-dated the first listing (n=7) and those where it post-dated the first listing (n=21).

Notes: Other listed activity includes: Dismissal, decision, management, mandatory refusal of firearms license, return of summons.

Date of first listing

Data quality – could be improved

Despite a listing date being of administrative value we found that the CMS data on the date of first listing was not always correct, perhaps because timetabling of hearings is done on a separate calendar based system.

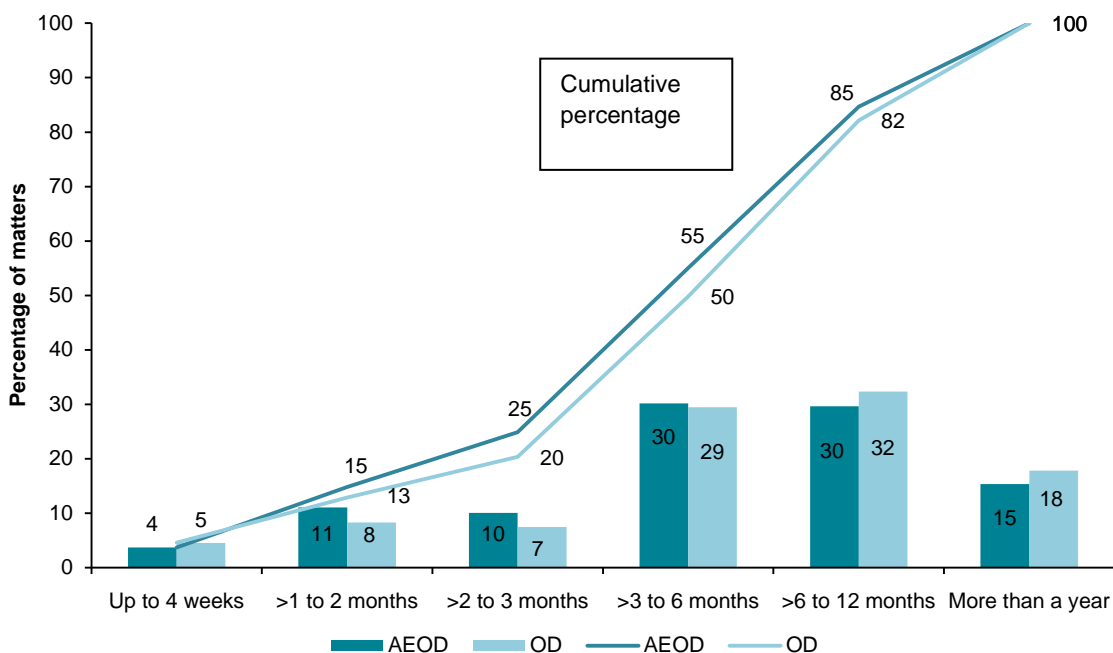
We haven't made an assessment of the level of error because for the most part it isn't possible to identify incorrect dates. However, 14 of the 1,008 first listing dates were a date prior to the lodgement date. And 3.3% of matters had a first listing date over 3 months after lodgement (some considerably longer).

A soft logic check on the listing date entry (such that the user is alerted if the date is not in an expected range) could help in improving the quality of date entry.

Time to finalisation

Next we look at the total time between application lodgement and the date of the final order. Figure 6 shows that AEOD and OD had a very similar profile, with about half of matters taking between 3 and 6 months to finalise and nearly a third between 6 and 12 months. The percentage of matters taking more than a year was 15.3% in AEOD and 17.8% in OD. On average, matters in each Division took just over 7 months: 217 days in AEOD and 222 in OD (Table 20).

Figure 6: Length of time from lodgement to finalisation of AEOD and OD matters, with cumulative percentage indicated by the line



There is, though, quite some variation between the lists within the Divisions (Table 20). The shortest cases were in *AEOD Community services* and *OD Administrative*. These took an average of 175 and 169 days respectively and virtually all completed within a year of lodgement (96.1% and 91.8%).

Cases took the longest in *OD Legal and other professionals* with an overall average of 328 days (over 10 months) and 39.4% taking more than a year to be finalised. Particularly time consuming were the 49 professional discipline matters in the legal and health lists, which averaged 347 days to finalise.¹⁷ Excluding these matters from the OD average reduces it from 222 days to 190 days.

Table 20: How long AEOD & O matters took to finalise in 2015, by list

	N	Average days	Cumulative per cent			
			Within 3 months %	Within 6 months %	Within 12 months %	Over a year %
AEOD	776	217	24.9	55.0	84.7	15.3
AEOD Administrative	367	212	24.8	57.8	85.3	14.7
AEOD Community services	152	175	26.3	53.9	96.1	3.9
AEOD Equal opportunity	145	227	29.7	54.5	79.3	20.7
AEOD Revenue	112	278	17.0	48.2	74.1	25.9
OD	241	222	20.3	49.8	82.2	17.8
OD Administrative	110	169	26.4	64.5	91.8	8.2
OD Health professionals	98	245	18.4	42.9	78.6	21.4
OD Legal and other professions	33	328	6.1	21.2	60.6	39.4
All AEOD & OD	1,017	218	23.8	53.8	84.1	15.9

Source: AEOD & OD CMS – date of lodgement and date of finalisation for AEOD and OD matters finalised in 2015.

¹⁷ These are matters brought as a Barrister/Solicitor disciplinary action (s.551 and s.555) or a s.167 complaint against a health professional.

Date of finalisation

Data quality – unknown

We did not make an assessment of the accuracy of the date of finalisation by comparing it with a sample of paper casefiles or published decisions. However, no finalisation date preceded the first listing event date.

A review of some of the longest cases against the information on dates provided in published decisions indicated that there may be a few cases closed administratively somewhat after their original decision date. The inclusion of these cases in the analysis reported here means the average length of cases is slightly over-estimated. While outliers (such as cases taking over a certain number of months) could be dropped from the analysis, this could equally underestimate the length of cases as some genuinely continue for quite some time.

Factors related to length of time cases take

As previously mentioned, how long a case takes will depend on many factors external to the Tribunal and not recorded on the CMS. But some factors are related to increased case length, irrespective of matter type or list. The impact of adjournments on case length is shown in Table 21. On average, one adjournment has minimal impact (although this masks considerable differences across lists). Two or more have a larger impact, with the average case length increasing to over 400 days when there were four or more adjournments.

Table 21: Average number of days for a case to finalise in AEOD and OD by number of adjournments

	N	Adjournments			
		None	1	2-3	4+
		Mean days	Mean days	Mean days	Mean days
AEOD	776	140	125	215	418
AEOD Administrative	367	192	133	231	410
AEOD Community services	152	49	117	217	257
AEOD Equal opportunity	145	68	128	191	421
AEOD Revenue	112	64	104	183	504
OD	241	51	124	241	393
OD Administrative	110	61	106	201	325
OD Health professionals	98	40	151	274	397
OD Legal and other professions	33	21	107	255	476
All AEOD and OD	1,017	129	125	222	412

Source: AEOD & OD CMS – date of lodgement and date of finalisation for AEOD and OD matters finalised in 2015.

The length of time a case takes also varies considerably by how it finalises (Table 22). The shortest cases, not surprisingly, were those where the applicant withdrew or the case was dismissed for non-appearance (averaging 140 days). Matters where the outcome was some kind of reprimand or disciplinary action – a majority of which involved a licensing/regulatory body taking action against a legal, health or other professional – were the slowest, with 37.7% taking over a year to complete and averaging 347 days (Table 22).

Table 22: Time taken for AEOD & OD matters to finalise in 2015, by outcome

	N	Average days	Cumulative %			
			Within 3 months %	Within 6 months %	Within 12 months %	Over a year %
Withdrawn or dismissed for non-appearance	318	140	41.2	74.8	93.7	6.3
Dismissed	90	238	42.2	51.1	80.0	20.0
Affirmed	144	236	43.2	35.4	88.2	11.8
Leave, application or appeal not granted or no jurisdiction	46	165	44.2	69.6	89.1	10.9
Remitted or Decision varied or set aside	97	202	45.2	54.6	89.7	10.3
Leave, application or appeal granted	16	168	46.2	62.5	100.0	0.0
Reprimand, fine, removal from roll/register, suspend, conditions #	53	347	47.2	7.5	62.3	37.7
Consent orders or settled-dismissed	118	289	48.2	53.4	72.9	27.1
Insufficient information on outcome	135	293	49.2	37.0	70.4	29.6
All outcomes	1,017	218	50.2	53.8	84.1	15.9

Source: AEOD & OD CMS data – date of lodgement and date of finalisation for AEOD and OD matters finalised in 2015.
51 of these matters were from OD lists. The 2 from AEOD were a reprimand/caution.

The findings above indicate considerable variation in time to finalisation by list, and variation by the number of adjournments and type of final order. Time to finalisation may also vary by other factors such as applicant/respondent type and representation status for different parties. It is recommended that the statistical technique of regression analysis is used to help to identify the relative impact of each of these factors on the length of time taken to resolve matters.

Pathways into and out of the AEOD and OD

Any discussion of the length of time it takes a client or applicant to resolve a dispute must also take into account the steps applicants may be required to take *before* the matter reaches NCAT and any steps that they might take if further action is required after the matter is heard by NCAT.

The steps applicants can or must take before they can lodge an application reflect the general principle that if a matter can be resolved without coming to a court or tribunal it should be. The diagrams below show examples for three lists: *AEOD Administrative review* (Box 1), *AEOD Equal opportunity* (Box 2), *AEOD Revenue* (Box 3) and *OD Health professionals* (Box 4). A pale blue box indicates an optional step prior to submitting an application to NCAT. A pink box indicates a compulsory step prior to accessing NCAT, as required by legislation.

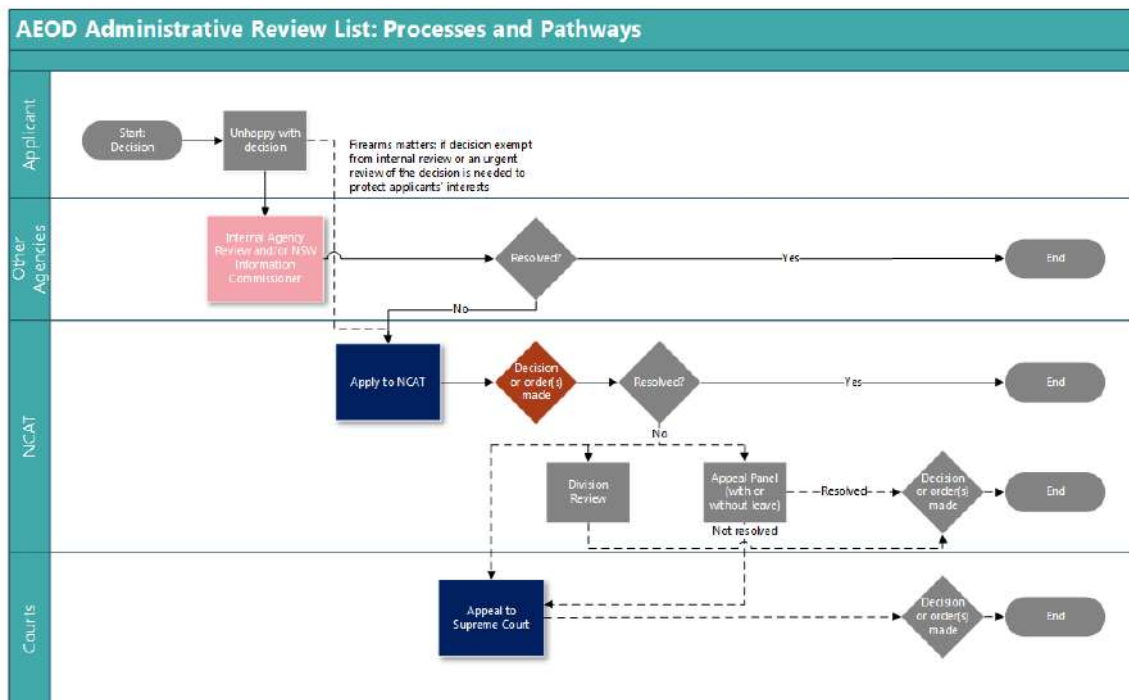
The first point to note is that there is no single pathway into AEOD or OD with prior steps varying by list, and in some cases, by specific matter type within a list. The second is that the paths differ by list and vary in the extent to which the Tribunal has a substantive, rather

than purely reviewing, role. These variations reflect the wide range of matters that NCAT deals with, with different pathways determined by the relevant legislation and practice.

Although most matters that come to NCAT resolve there (the amber triangle) the diagrams also show that the decision in AEOD & OD is not always the end of the case as an internal (to the NCAT Appeal Panel) or external (to the Supreme Court) is an option for some types of matter (as determined by legislation).

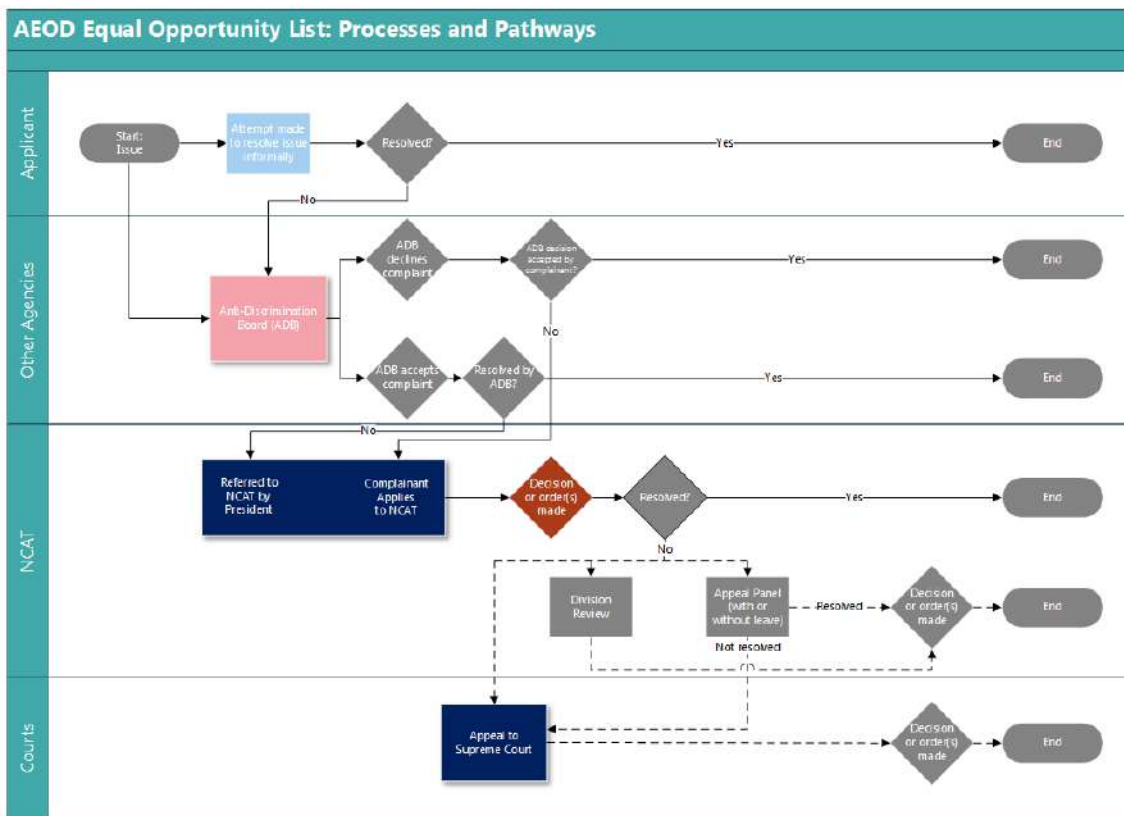
The diagrams are intended to show the process matters may go through prior to reaching NCAT and options for further activity. They are not an indication of the extent to which these paths are followed in practice.

Box 1: AEOD Administrative Review



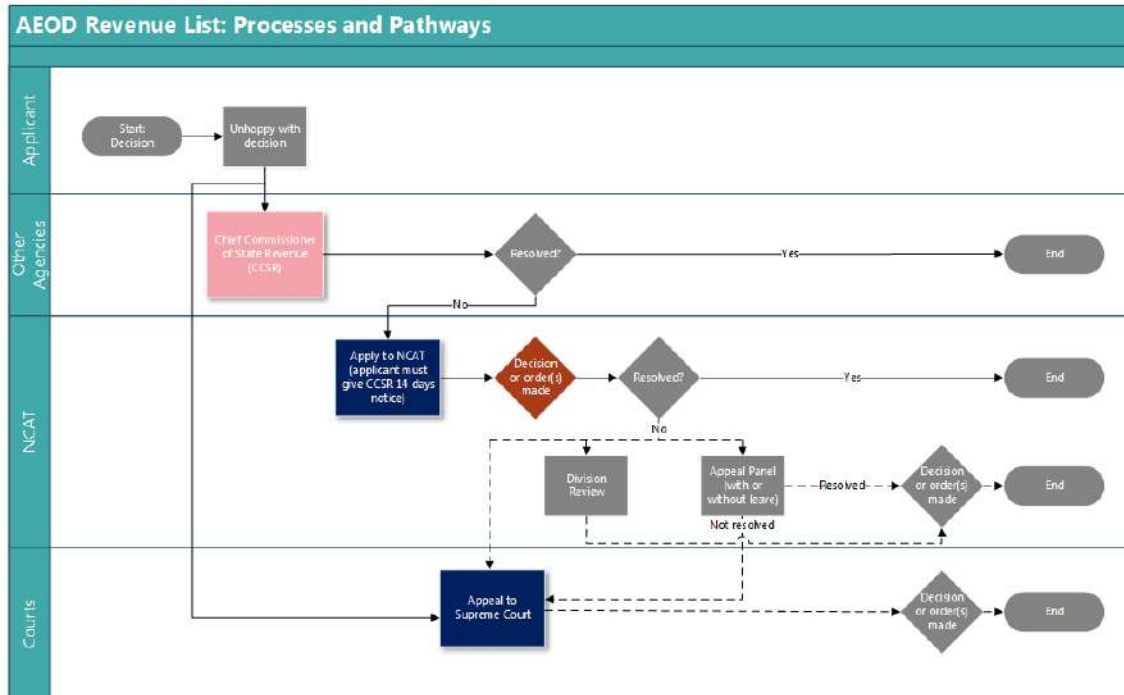
Note: Not all pathways are available for all matters. Most matters coming to NCAT are finalised there. The inclusion of pathways is not an indication of their use in practice. Division Review applies in limited circumstances, such as when a party who did not attend as they were not served seeks to have the matter reopened.

Box 2: AEOD Equal Opportunity



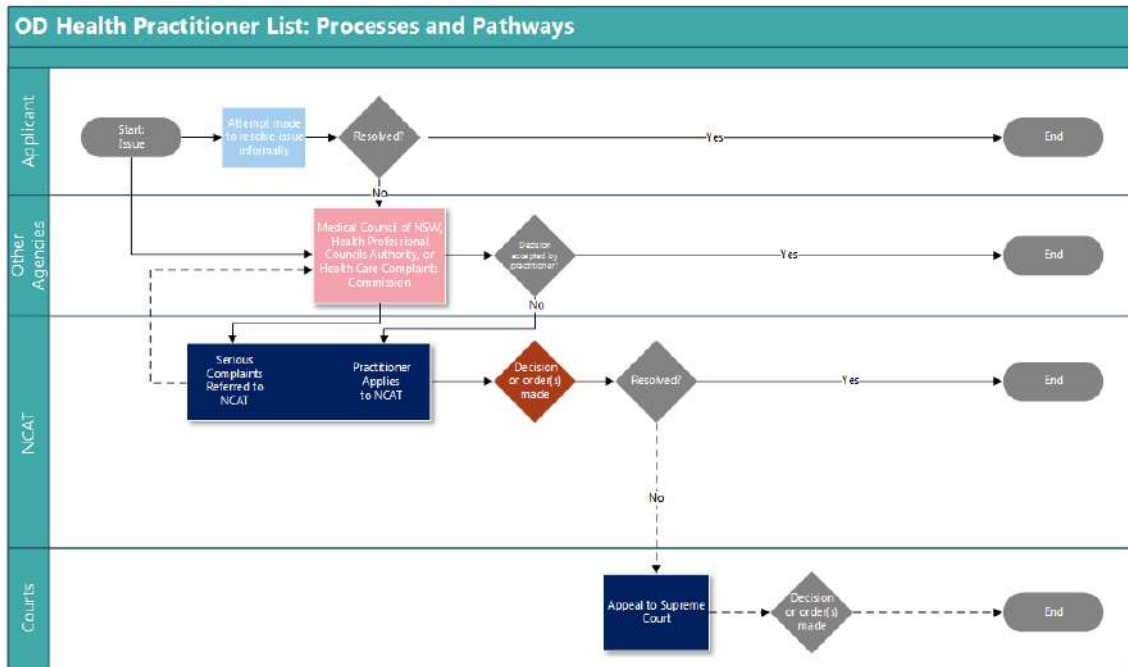
Note: Not all pathways are available for all matters. Most matters coming to NCAT are finalised there. The inclusion of pathways is not an indication of their use in practice., for instance, Division Review applies in limited circumstances, such as when a party who did not attend as they were not served seeks to have the matter reopened.

Box 3: AEOD Revenue



Note: Not all pathways are available for all matters. Most matters coming to NCAT are finalised there. The inclusion of pathways is not an indication of their use in practice., for instance, Division Review applies in limited circumstances, such as when a party who did not attend as they were not served seeks to have the matter reopened.

Box 4: OD Health professionals



Note: Not all pathways are available for all matters. Most matters coming to NCAT are finalised there. The inclusion of pathways is not an indication of their use in practice.

Technical Note

Data from the AEOD & OD CMS

Data was provided for all matters finalised, by whatever means, during 2015. The fields provided for analysis are shown in Table T.1. *Matter_number* is the linking field that allows information about orders and listings to be attached to the relevant matter details. This was not provided for participants.¹⁸ It would appear that some processing of the data had been done as some fields were included that we understand aren't directly taken from the CMS, such as number of hearings and the *finalised_order* in the matters data. We recognise that there may be additional fields that we did not request, or were not provided with, that could also be of value in understanding the business of AEOD & OD.

Table T.1: Data tables and Field names provided from the AEOD & OD CMS

Matters	Orders	Listings	Participants
MATTER_NUMBER	MATTER_NUMBER	MATTER_NUMBER	TRIBUNAL_TYPE
TRIBUNAL_TYPE	ORDER_DATE	LISTING_DIVISION_DESC	LIST_DESC
DIVISION_DESC	ORDER_DESC	LISTING_TYPE	PARTICIPANT_ROLE
LODGEMENT_DATE	CONSENT_FLAG	LISTING_LOCATION_POST_CODE	PARTICIPANT_TYPE
CURRENT_STATUS	ORDER_MODE	LISTING_LOCATION	PARTICIPANT_POSTCODE
LIST_DESC	FINAL_ORDER	LISTING_DATE	PARTICIPANT_REPRESENTED
STATUTORY_JURISDICTION	EFFECTIVE_DATE	LISTING_TIME	
FIRST_HEARING_DATE		LISTING_NUM	
FINALISED_DATE			
FINALISED_ORDER			
NUM_HEARINGS			
DECISION_DATE			
DECISION_PUBLISHED			
FEE_PAID			
APPEALED_TYPE			
LISTING_ATTENDANCE			
LISTING_INTERPRETER			
LISTING_MEDIATION			
MATTER_TITLE			

¹⁸ Due to staff changes in the team responsible for providing the data it was not possible to access this data in the time available.

Sample sizes

Table T.2: Number of records provided from the AEOD & OD CMS (matters finalised in 2015)

	AEOD	OD	AEOD & OD
All matter records	784	247	1,033
Matters with errors in registration excluded	776	241	1,017
Matters with a first listing	767	241	1,008
Matters with a first listing date after application date	759	235	994
Matters with a first listing date matching a first order date	734	232	966
Applicant records	783	246	1,029
Respondent records	814	241	1,055

Entity coding

The applicant and respondent for all matters finalised during 2015 were coded into entity type categories, which were collapsed for the purpose of reporting here.

Casefiles

A sample of 100 casefiles was drawn at random from the 1,033 matters finalised in 2015. This was checked to ensure it provided at least some matters from each of the main categories of case type. Table T.3 shows the distribution of casefile compared to the distribution of matters recorded in the CMS and shows it to be a reasonable match for the purpose of the review.

Table T.3: Number of AEOD and OD casefile reviewed by the Foundation, by list

	Casefiles		CMS
	N	%	%
AEOD Administrative	38	38.4	36.1
AEOD Community services	17	17.2	14.9
AEOD Equal opportunity	10	10.1	14.3
AEOD Revenue	9	9.1	11.0
OD Administrative	9	9.1	10.8
OD Health professionals	10	10.1	9.6
OD Legal and other professions	6	6.1	3.2
Total	99	100.0	100.0

Notes: One appeal matter was also included in the casefile review. For some analyses this is included in the AEOD Administrative list.

Annex Tables

Table A.1: Statutory jurisdiction of matters finalised in AEOD in 2015, by list with number of matters in parentheses

AEOD Administrative review	AEOD Equal opportunity
Government Information (Public Access) Act 2009 (146)	Anti-Discrimination Act 1977 (131)
Victims Rights and Support Act 2013 (62)	Disability Discrimination (4)
VCT – Victims Support and Rehabilitation Act 1996 – dismissed (15)	Race Discrimination (4)
VCT – Victims Support and Rehabilitation Act 1996 – amount awarded (4)	Sexual Harassment (3)
Firearms Act 1996 (41)	Age Discrimination (1)
Privacy and Personal Information Protection Act 1998 (24)	Carers Responsibilities Discrimination (1)
Guardianship Act 1987 (13)	Victimisation (1)
Tattoo Parlours Act 2012 (11)	AEOD Revenue
Health Records and Information Privacy Act 2002 (9)	Land Tax Management Act 1956 (48)
Liquor Act 2007 (7)	Payroll Tax Act 2007 (22)
NSW Trustee and Guardian Act 2009 (7)	Taxation Administration Act 1996 (16)
Explosives Act 2003 (3)	Duties Act 1997 (7)
Firearms Regulation 2006 (3)	First Home Owner Grant Act 2000 (5)
Health Care Complaints Act 1993 (3)	Land Tax Act 1956 (5)
Apiaries Act 1985 (2)	Parking Space Levy Act 1992 (3)
Apprenticeship and Trainee Act 2001 (2)	Gaming Machine Tax Act 2001 (2)
Births Deaths and Marriages Registration Act 1995 (2)	Regional Relocation (Home Buyers Grant) Act 2011 (2)
Boarding Houses Act 2012 (2)	Betting Tax Act 2001 (1)
Combat Sports Act 2013 (2)	Payroll Tax Act 1971 (1)
Government Information (Public Access) Act 2009 – s.110(5) Appln by Agency (2)	
Local Lands Services Act 2013 (2)	
Water Act 1912 (2)	
Education Act 1990 (1)	
Forestry Act 2012 (1)	
Institute of Teachers Act 2004 (1)	
AEOD Community Services	
Child Protection (Working with Children) Act 2012 (116)	
Community Services (Complaints, Reviews and Monitoring) Act 1993 (24)	
Children and Young Persons (Care and Protection) Act 1998 (9)	
Child Protection (Working with Children) Regulation 2013 (1)	
Children (Education and Care Services National Law Application) Act 2010 (1)	
Community Services (Complaints, Reviews and Monitoring) Regulation 2004 (1)	

Table A.2: Statutory jurisdiction of matters finalised in OD in 2015, by list with number of matters in parentheses

OD Administrative review	OD Health professionals
Home Building Act 1989 (42)	Medical – Complaint s.167 (22)
Passenger Transport Act 1990 (27)	Nursing and Midwifery – Appeal National s.175 (12)
Security Industry Act 1997 (12)	Medical – Appeal s.159 (7)
Property, Stock and Business Agents Act 2002 (9)	Pharmacy – Complaint s.167 (7)
Motor Dealers and Repairers Act 2013 (5)	Nursing and Midwifery – Complaint s.167 (6)
Tow Truck Industry Act 1998 (5)	Medical – General Appln s.163 (5)
Local Government Act 1993 (3)	Psychology – Complaint s.167 (5)
Commercial Agents and Private Inquiry Agents Act 2004 (2)	Dental – Appeal s.159 (3)
Veterinary Practice Act 2003 (2)	Medical – Appeal National s.175 (3)
Home Building Regulation 2004 (1)	Nursing and Midwifery – Appeal s.159 (3)
Pawnbrokers and Second hand Dealers Act 1996 (1)	Nursing and Midwifery – General Appln s.163 (3)
Wool Hide and Skin Dealers Act 2004 (1)	Pharmacy – General Appln s.163 (3)
OD Legal and other professions	Chiropractic – Appeal National s.175 (2)
Legal Profession Act 2004 (25)	Dental – Appeal National s.175 (2)
Solicitor; Disciplinary action s.551 and s.555 (3)	Dental – Complaint s.167 (2)
Barrister; Disciplinary action s.551 and s.555 (2)	Osteopathy – Complaint s.167 (2)
Building Professionals Act 2005 (2)	Psychology – General Appln s.163 (2)
Legal Profession Uniform Law (NSW) (1)	Chinese Medicine – Appeal s.159 (1)
	Chiropractic – Appeal s.159 (1)
	Chiropractic – General Appln s.163 (1)
	Osteopathy – Appeal s.159 (1)
	Osteopathy – General Appln s.163 (1)
	Pharmacy – Appeal s.159 (1)
	Physiotherapy – General Appln s.163 (1)
	Podiatry – General Appln s.163 (1)
	Psychology – Appeal s.159 (1)

Source: AEOD & OD CMS – all OD matters finalised in in 2015.

Table A.3: Applicant type for matters finalised in 2015, by AEOD and OD list

	AEOD Administrative review	AEOD Community services	AEOD Equal opportunity	AEOD Revenue	OD Administrative review	OD Health professionals	OD Legal and other professions	All AEOD & OD lists
	N=367	N=152	N=145	N=112	N=110	N=98	N=33	N=1,017
	%	%	%	%	%	%	%	%
Individual(s)	90.5	97.4	98.6	29.5	90.9	51.0	15.2	79.7
Representatives of individuals (incl. trusts, guardians, estates)	0.3	0.0	0.0	6.3	0.0	0.0	0.0	0.8
Council	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.3
Government dept. (incl. police and health)	0.3	0.0	0.0	0.9	2.7	49.0	9.1	5.5
Government owned corp. (incl. utilities & transport)	0.0	0.0	0.0	1.8	0.0	0.0	0.0	0.2
NGOs and not-for-profits (excl. education and health)	0.8	0.0	0.0	0.9	0.0	0.0	0.0	0.4
Education (incl. schools, day care, universities)	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.1
Health (incl. clinics and aged care)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Business (incl. retail, manufacturing finance, insurance)	2.5	0.0	0.0	44.6	6.4	0.0	0.0	6.5
Representing organisations (incl. professional councils, interest groups and strata)	3.0	0.0	0.0	0.0	0.0	0.0	72.7	3.4
Multiple entities of different types	1.6	2.6	1.4	16.1	0.0	0.0	3.0	3.0

Source: AEOD & OD CMS data and LJF coding of applicant type in matters finalised in 2015.

Table A.4: Respondent type by AEOD and OD list

	AEOD Administrative review	AEOD Community services	AEOD Equal opportunity	AEOD Revenue	OD Administrative review	OD Health professionals	OD Legal and other professions	All AEOD & OD lists
	N=367	N=152	N=145	N=112	N=110	N=98	N=33	N=1,017
	%	%	%	%	%	%	%	%
Individual(s)	0.8	0.0	10.3	0.0	2.7	49.0	78.8	9.3
Representatives of individuals (incl. trusts, guardians, estates)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Council	11.7	0.7	2.8	0.0	0.9	0.0	0.0	4.8
Government department (incl. police and health)	79.8	90.8	35.2	100.0	96.4	51.0	9.1	74.0
Government owned corp. (incl. utilities & transport)	1.9	0.0	3.4	0.0	0.0	0.0	0.0	1.2
NGOs and not-for-profits (excl. education and health)	0.0	7.9	0.0	0.0	0.0	0.0	0.0	1.2
Education (incl. schools, day care, universities)	1.4	0.0	6.9	0.0	0.0	0.0	0.0	1.5
Health (incl. clinics and aged care)	0.3	0.0	2.8	0.0	0.0	0.0	0.0	0.5
Business (incl. retail, manufacturing finance, insurance)	1.1	0.0	18.6	0.0	0.0	0.0	3.0	3.1
Representing organisations (incl. professional councils, interest groups and strata)	0.0	0.7	10.3	0.0	0.0	0.0	6.1	1.8
Multiple entities of different types	3.0	0.0	9.7	0.0	0.0	0.0	3.0	2.6

Source: AEOD & OD CMS data and LJF coding of applicant type in AEOD and OD matters finalised in 2015.

Table A.4a Respondent in Government Information (Public Access) matters finalised in 2015

	All applicants	
	N	%
Local council	38	25.7
NSW Police	25	16.9
State govt: planning, environment, heritage	9	6.1
State govt: family	7	4.7
State govt: premier & cabinet	6	4.1
State govt: education	6	4.1
State govt: justice	6	4.1
State govt: trade & investment	5	3.4
State govt: roads & maritime	4	2.7
Local health district	6	4.1
Other government dept or body	20	13.5
Government owned corporation	6	4.1
Education and day care providers	4	2.7
Other including private providers of gov. services; individuals; multiple entities)	5	3.4
All	148	100.0

Source: AEOD & OD GIPA matters finalised in 2015. LJF coding of respondents.

Table A.5: Percentage of matters in which the applicants and respondents were recorded on the CMS as represented¹⁹

	Applicants N=1,029	Respondents N=1,055
	% represented	% represented
AEOD Administrative review	42.4	47.6
AEOD Community services	53.6	89.6
AEOD Equal opportunity	36.3	67.4
AEOD Revenue	64.1	95.5
OD Administrative review	55.0	42.3
OD Health professionals	45.5	60.0
OD Legal and other professions	36.1	30.0
Total	47.1	61.7

Source: AEOD & OD CMS data on participants in all matters finalised in 2015. Matters may have more than one applicant/respondent.

¹⁹ From the AEOD & OD CMS data provided, it is only feasible to report at an aggregate list level on the percentage of matters for which AEOD & OD CMS records details of a representative for an applicant or respondent.

Table A.6: Percentage of individual/company applicants and respondents recorded on the CMS as represented, by list

	% applicants represented				% respondents represented			
	Individual		Company		Individual		Company	
	n	%	n	%	n	%	n	%
AEOD Administrative review	347	41.8	33	48.5	10	40.0	391	47.8
AEOD Community services [#]	151	53.6	0	n/a	1	-	153	89.5
AEOD Equal opportunity	135	36.3	0	n/a	25	56.0	122	69.7
AEOD Revenue	49	49.0	68	75.0	0	n/a	112	95.5
OD Administrative review [#]	102	53.9	9	-	3	-	108	42.6
OD Health professionals	51	51.0	48	39.6	47	70.2	53	50.9
OD Legal and other professions [#]	9	-	27	48.2	26	34.6	4	-
Total	844	45.0	185	56.8	112	55.4	943	62.5

Source AEOD & OD CMS data on participants in matters finalised in 2015.

Notes: # Findings are not reported where the number of cases is less than 10, to protect the privacy of applicants and respondents.

Table A.7: Order types by final order flag for all matters finalised in 2015

	Flagged as final	Flagged as consent	Finalised at hearing	All orders
	%	%	%	N
Adjourned	0.0	2.5	100.0	2484
Affirmed	92.4	0.0	100.0	158
Appeal Upheld	100.0	0.0	100.0	1
Application Granted	76.5	5.9	100.0	17
Application Refused	46.2	0.0	100.0	39
Conditions imposed on practising certificate	100.0	0.0	100.0	6
Conditions imposed on registration	50.0	0.0	100.0	2
Consent Orders	100.0	55.6	100.0	9
Date vacated	14.3	0.0	100.0	7
Decision issued	74.8	1.9	67.1	155
Decision issued re costs	23.5	0.0	94.1	17
Decision issued re interlocutory matter	0.0	0.0	44.4	9
Decision reserved	0.0	1.3	92.9	521
Decision reserved re costs	3.7	0.0	63.0	27
Decision reserved re interlocutory matter	0.0	4.3	95.7	23
Decision Set Aside	97.5	14.8	100.0	81
Decision Varied	100.0	38.5	100.0	13
Dismissed	92.9	2.0	100.0	99
Dismissed under s.102 – frivolous	0.0	0.0	100.0	1
Fined	100.0	0.0	100.0	1
Leave granted/allowed	25.0	0.0	100.0	4
Leave not granted	91.3	0.0	100.0	23
No Appearance Dismissed	100.0	0.0	100.0	7
No Jurisdiction	100.0	0.0	100.0	5
Order(s) made	50.0	0.0	100.0	6
Orders – other	47.6	0.0	100.0	21
Orders made after hearing	68.4	2.6	100.0	38
Practising certificate suspended or cancelled	100.0	0.0	100.0	16
Privacy only – application dismissed	100.0	0.0	100.0	1
Privacy only – where finding that contra	100.0	0.0	100.0	1
Remitted with or without recommendations	61.5	7.7	100.0	13
Removed from Register	100.0	0.0	100.0	2
Removed from Roll	100.0	0.0	100.0	8
Reprimand or caution	100.0	0.0	100.0	5
Reprimanded	93.3	6.7	100.0	15
Reprimanded and fined	66.7	0.0	100.0	3
ROS Access	0.0	0.0	100.0	251
Settled	0.0	0.0	100.0	10
Settled-Dismissed	99.1	16.4	100.0	110
Stay Granted	5.6	22.2	100.0	18
Withdrawn-Dismissed	98.4	1.9	100.0	316
Written reasons issued	14.3	0.0	0.0	56
Written reasons reserved	6.2	0.0	3.1	65
All orders	22.8	2.7	95.2	4664

Source: CMS Order data for AEOD & OD matters finalised in 2015.