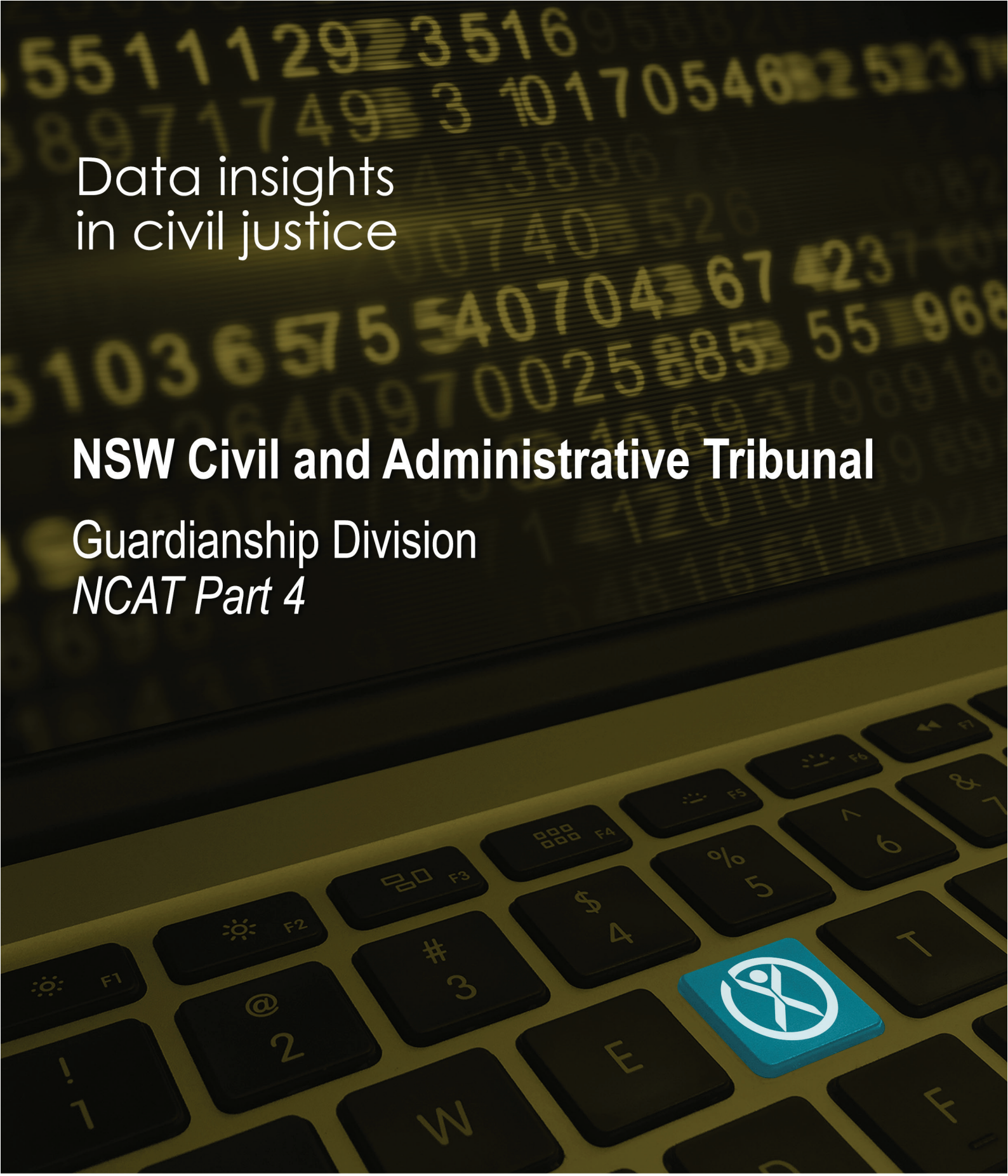

Data insights
in civil justice

NSW Civil and Administrative Tribunal

Guardianship Division

NCAT Part 4

LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

Data insights in civil justice:

NSW Civil and Administrative Tribunal *Guardianship Division* (NCAT Part 4)

Maria Karras and Sarah A. Williams

With assistance from Suzie Forell and Catriona Mirrlees-Black

Law and Justice Foundation of New South Wales

November 2016

LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

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Other Authors/ Contributors:	Suzie Forell and Catriona Mirrlees-Black

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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

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Shortened forms

AEOD	Administrative and Equal Opportunities Division
AP	Appeal Panel
CCD	Consumer and Commercial Division
CMS	Case Management System
CTTT	Consumer Trader and Tenancy Tribunal
Foundation	Law and Justice Foundation of New South Wales
GD	Guardianship Division
NCAT	New South Wales Civil and Administrative Tribunal
OD	Occupational Division

Key messages

Overview

This report is about the administrative data held by the Guardianship Division (GD) of NCAT. The GD determines applications about people with a decision-making disability and who may require a legally appointed substitute decision maker. The GD deals with about 17% of applications to NCAT.

The data collected both in the casefiles and the Case Management System (CMS) reflect the obligations to, and often long term relationship the GD has with, its clients. Accordingly, the data held is rich, complex and client-centric.

This report is part of a larger project by the Law and Justice Foundation (the Foundation) to assist the Department of Justice NSW to optimise the use of civil court and tribunal data for evidence-based decision-making. This report will discuss the content, quality and utility of data held by the GD for the purposes of policy planning. Drawing on CMS data fields provided by the GD, analyses of casefiles, forms, templates and procedures, this report recommends ways in which the GD CMS can be optimised to inform policy and practice.

In brief, our review found the GD CMS to be an extensive and detailed data source. The GD CMS appears to effectively support the ongoing contact with and facilitation of participation by those involved in matters. While certain key data fields, such as matter type, hearing date and order made appear reliable, other fields such as parties involved, attendance at hearings and date that matters were lodged will need some revision to maximise the utility of CMS data for NCAT reporting and policy planning purposes.

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) 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 concerns **Guardianship Division (GD)** data. Separate reports cover the Consumer and Commercial Division (CCD), the Administrative and Equal Opportunity Division and the Occupational Division (the AEOD and OD in one report) and the Appeal Panel (AP). As NCAT is in the process of moving to a new CMS any issues raised in this, and the reviews of the other Divisions, will be considered in the new system build.

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 on the GD we ask:

1. Who are the parties in GD matters?
2. What types of matters are heard by the GD?
3. How do parties participate in hearings?
4. Are parties represented and by whom?
5. How do matters progress to finalisation?
6. How long do matters take?
7. How are GD matters finalised or resolved?

We examine the capacity of the GD case management system (CMS) to provide data to answer these questions. It is important to bear in mind that information and data are primarily collected by the GD to support the administration of Division in supporting clients. and systems have been primarily designed for that purpose. A client of the GD is a person who is the subject of a matter before the Tribunal (hereafter referred to as the subject person).

An overview of the methodology

The review of the GD CMS involved two main sources, namely, the CMS data itself and a sample of paper casefiles, against which the quality of certain fields in the CMS were assessed. Specifically, this review drew on:

1. Unit record data, provided by GD staff, of all matters finalised between 1 January and 31 December 2015 (n=12,161). The fields provided were matter type, hearing date, outcome, risk rating, subject person id number, self-applicant status and lodgement date.[1]
2. A sample of electronic and paper files of matters (n=53) that included examples of the main matter types. This sample was used to check the accuracy of information on the CMS and collect relevant details that the CMS does not hold.
3. An in-depth review of the GD CMS.
4. Relevant documents, including legislation, GD guidelines for data entry and procedure manuals.
5. Consultation with NCAT Members and staff.

Due to certain unique features of the GD and the limited unit record data the GD was able to provide, this review differed to that of the other NCAT Divisions. The focus was on obtaining an overview of the rich data collected by the GD and assessing the accuracy and completeness of certain CMS fields against the corresponding casefiles.

Background

What the Guardianship Division does

The GD determines applications about people with a decision-making disability and who may require a legally appointed substitute decision maker. The GD deals with about 17% of applications to NCAT.

Applications to the GD include:

- Guardianship orders to appoint a guardian to make personal or lifestyle decisions for someone with decision-making disabilities.
- Financial management orders to appoint a financial manager for someone who is not capable of managing their affairs.
- Consent for treatment by a doctor or dentist.
- Review an enduring power of attorney.
- Review an enduring guardianship appointment.
- Approval of a clinical trial so that people with a decision-making disability can take part.

The Guardianship Act 1987 sets out the limits of responsibilities and functions and the principles to be applied when making decisions. Section 4 of the Guardianship Act 1987 sets out principles which must be observed by Tribunal Members of the Division and which

[1]Due to vendor constraints GD staff were only able to provide this limited number of fields.

guide case management practice and procedure in the Division. The principles make clear the duty of any person exercising functions under the Act to:

- give the person's welfare and interests paramount consideration
- restrict the person's freedom of decision and freedom of action as little as possible
- encourage the person, as far as possible, to live a normal life in the community
- take the person's views into consideration
- recognise the importance of preserving family relationships and cultural and linguistic environments
- encourage the person, as far as possible, to be self-reliant in matters relating to their personal, domestic and financial affairs
- protect the person from abuse, neglect and exploitation
- encourage the community to apply and promote these principles.

The GD case management system

In terms of the potential for data analysis, the GD CMS holds two types of data:

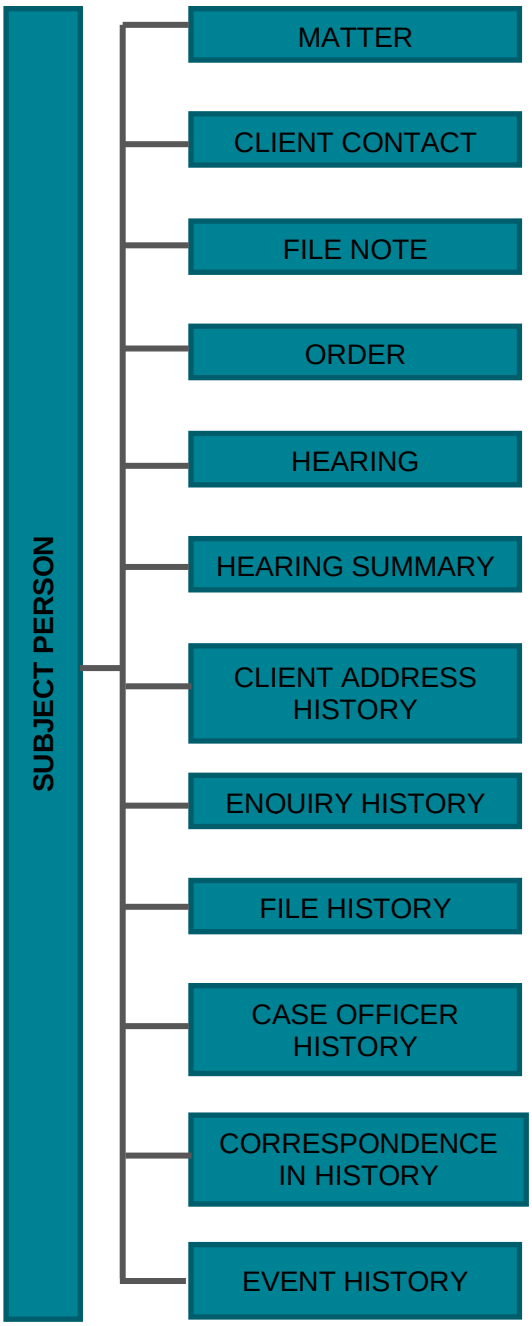
- data categorised in specific fields (e.g. matter type, order made, hearing date, etc.), which can be downloaded and subject to statistical analysis ('reportable data')
- information recorded in text fields or PDF attachments. This information is accessible for the day-to-day administration of a matter, but cannot be downloaded for statistical analysis. Examples include full orders made and those attending hearings in the GD.

In this report, we focus upon 'reportable (or potentially reportable) data': the information, which is in a form that can be readily subject to statistical analysis. As noted at footnote 1 the data assessed in this review is also limited by the number of fields the GD were able to provide, due to vendor constraints.

Content of the GD CMS

Given the focus of the GD in supporting subject persons, often over extended periods and multiple matters, this Division holds very rich data regarding subject persons and their particular matters. The subject person is the primary unit of measure and all fields relate back to the subject person. Within each subject person's electronic records, individual matters can be isolated for the purposes of reporting. However, as explained below, certain important fields cannot be easily linked to individual matters.

Diagram 1: Structure of GD CMS



Specific data fields in the Guardianship Division's CMS

Appendix 1 provides a complete outline of all the fields in the GD CMS. Foundation staff collected a full list of all possible values for each field. It is important that any redesign of GD CMS consider this full list of fields and the purpose of each field.

Given the extensive data held it was not possible to assess the quality and utility of all fields for this review. The fields which we did assess the quality of are highlighted in Appendix 1 in yellow. We have summarised our findings regarding the quality and utility of the highlighted fields most relevant to key policy questions.

Quality and utility of CMS data

We assess the quality and utility of GD CMS data for the purpose of policy analysis, with a focus on the types of questions that are of interest across Divisions. This is a very different exercise to assessing the quality of the data for the Division's administrative purposes. While the latter was not part of the review we note that all incidental information we gleaned on the latter indicated an efficient system that appeared to support the GD in fulfilling its function and responsibilities to subject persons.

Who are the parties in GD matters?

In the CCD, AEOD & OD and AP, applicants bring matters to the Tribunal to resolve disputes with the respondent(s). By way of contrast, in the GD, there may be an applicant, there will be no respondent, but there is always a subject person. The subject is the person about whom any order is made (e.g. for guardianship or a financial management order).

The range of potential parties in GD matters is clearly detailed in a publicly available NCAT factsheet.[2] The subject person, is always a party in any proceedings. In addition, depending on the application type a number of others may be involved as parties and have certain rights in legal proceedings, such as the right to receive notice of a hearing. Based on the NCAT factsheet, the range of potential parties that may be involved in matters are:

- The subject person (NB this is the only person who is always a party in all matters)
- The applicant (in some matters the applicant is the subject person)
- Spouse of the subject person
- Carer of the subject person
- Guardian appointed by the Tribunal
- Enduring Guardian
- Public Guardian
- Party joined by the Tribunal
- Financial manager appointed by the Tribunal
- Attorneys under a Power of Attorney
- NSW Trustee.

However, using CMS data to definitively identify the parties involved in specific matters is a much less straightforward task, and involves combining the **matter contact** and **client**

[2] http://www.ncat.nsw.gov.au/Documents/gd_factsheet_who_is_a_party_to_proceedings.pdf

contact fields. While each field provides information about the people and organisations involved neither can be used to download a complete list of parties *involved in a particular matter*. The detailed (and in our assessment) accurate information regarding the relationship of **client contacts** to the subject person is limited in its usefulness by the fact that it is reported across all matters relating to a subject person and not just specific matters. The **matter contact** fields (**contact name** and **contact type**) have the benefit of being specific to matters and identifying a number of parties, however the subject person is never included in this list and the applicant is not noted as a party but rather as 'the applicant'. Further, in our assessment this list was not always as complete as the **client contact** field.

GD staff advised that the parties for a matter are officially determined at the hearing and therefore the PDF outlining the Reasons for Decision is the most accurate source regarding the parties to a matter. However, this is not reportable data as there is no one CMS field or a group of fields that at present can be used to download this information completely.

For NCAT reporting regarding the number and nature of parties involved in GD matters a new field would need to be created. The subject person would also need to be added to the list of contacts listed to ensure that the list of parties is complete. The remaining party type categories could be the same as the categories from the Factsheet listed above. The party type field should be checked against the Reasons for Decision PDF to ensure its accuracy.

As part of our fieldwork we used casefiles to investigate the number and of type of parties involved in our sample of 53 matters. While not a representative sample, we found that more than half of the matters involved 3 or more parties and up to a maximum of 8 parties in one matter. The types of parties involved reflected those listed in above. The majority of applicants were family members (commonly adult children of the subject person) or health professionals (most commonly social workers). In addition to the official parties a number of other interested persons (such as other health professionals and family or friends) were involved in matters. A new field regarding party type as described above would be needed to accurately report on the number and types of parties involved.

1. What types of matters are heard by the GD?

As stated above, the GD determines applications about people with a decision-making disability and who may require a legally appointed substitute decision maker. Unit record data of all matters finalised in 2015 at the GD allows us to report on the types and numbers of matters determined by the GD in that time period. Individual GD subject persons may have had more than one matter determined in this reference period, for example a subject person may have had both a guardianship matter and a financial management matter heard by a 3 Member panel and a procedural matter such as an application for legal representation heard by 1 Member prior to this main hearing. Each of these matters is counted separately although can be linked through the CMS data. In the CMS *application type* refers to a broader category of matter, such as Financial Management and *matter type* refers to the specific matter such as Application to a Revoke Financial Management Order.

Table 1, below, reports on the number of matters in 6 categories grouped by the Foundation. Appendix 2 lists all the subcategories of matters in each of the groups.

Table 1: Matters finalised in 2015 at GD

GD matter types (grouped by LJF)	Matters finalised	% GD
Guardianship applications	3,285	27.0
Financial management applications	3,166	26.0
Statutory reviews of orders	2,633	21.7
Procedural matters/directions (eg legal representation, join as party, adjournment)	1,426	11.7
Requested reviews/recognition of interstate orders	1,290	10.6
Others (eg consent for medical/ dental treatment, clinical trials)	361	3.0
Total	**12,161**	**100.0**

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015. See Appendix 2 for all subcategories of matters.

New substantive matters and requested reviews

As Table 1 indicates the most common matter types finalised in the GD during 2015 were:

- new Guardianship Applications (27.0% of GD matters)
- Financial Management Applications (26.0% of GD matters).

Both of these matter types are initiated by the submission of an Application for Appointment of a financial manager and/or guardian form.[3]

Among matters finalised, 11% were of requested reviews of existing orders or recognition of interstate orders, and 3% of matters concerned applications for consent for medical or dental treatment or clinical trials. As with financial management and guardianship

[3] Available at http://www.ncat.nsw.gov.au/Documents/gd_form_appointment_financial_manager_and_or_guardian.pdf.

applications all of these other new substantive matters and any requested reviews of existing orders are initiated through application forms.[4]

Our fieldwork indicated that the information on application forms was recorded with a high degree of accuracy and completeness in the CMS. Matter types always reflected the application type made on paper in our sample of 53 casefiles although slightly different terms may have been used.

Statutory reviews

Statutory reviews of orders are counted as separate matters, however they are generated by Tribunal staff at the time of the original order, so there is no applicant or application form for these matters. As Table 1 above indicates 21.7% of matters finalised were statutory reviews of existing orders. The vast majority of these matters (18.7% of all GD matters) were statutory reviews of guardianship orders.

Procedural matters

Procedural matters such as applications for legal representation, to be joined as party, and adjournments constituted the remaining 11.7% of matters finalised in the reference period. Some of the matters will involve an application form, such as the one required to be joined as a party, others will involve correspondence on file from a solicitor and others still may be initiated by the Tribunal itself at a prior hearing. For this reason, some of these matters will involve applications and applicants and others will not. In almost all instances in our fieldwork, these matters were accurately recorded according to the various documents on file that initiated these matters.

Overall our review suggests that CMS data regarding the number and types of matters heard is accurate and complete. It is important to note, however that GD unit record data we were provided included both interlocutories (procedural matters) and reviews in its list of matters and in this way differs to other Divisions. Following our review NCAT have advised that the GD does not include procedural matters in its primary counting for caseload statistics.

[4] Available at http://www.ncat.nsw.gov.au/Pages/guardianship/gd_forms.aspx#guardianship_and_financial_management.

2. How do parties participate in hearings?

The GD has several policies and procedures in place to encourage the participation of parties (in particular the subject person) in hearings. Once an application is made to the GD a Tribunal Officer is assigned to prepare the application for hearing. Part of this process involves corresponding with all parties regarding the hearing date and arrangements. In addition, the Tribunal Officer also obtains, where possible, the views of the person the application is about and assists in identifying how the subject person can best participate in the proceedings.

In our casefile analysis, we saw evidence of concerted efforts to facilitate the participation of the subject person. These efforts are reflected in several of the fields listed in Appendix 1 of this report. For instance, background information is collected regarding any capacity and access issues for the subject person. Further, as can be seen in the Requirements tab under the Hearing tab, provisions are made for interpreters, security or whether a party is available to participate in person or by phone.

On the CMS, it is the Availability field under the Requirements tab that most closely indicates attendance at hearings. However, GD staff advise that this field only indicates the *intention* of parties to participate. The only place to find a record of who actually attended a hearing is the Reasons for Decision PDF for any substantive matters. Procedural matters do not usually have Reasons for Decision PDF so we can't know which, if any, of the parties attended hearings regarding procedural matters.

Our sample of 53 casefiles indicates attendance (either by phone or in person) by the subject person in the majority of substantive matters. Where the subject person did not attend, it was often because their disability prevented them from doing so. A fairly typical example included a file note in which the Tribunal Officer organised a video link at a hospital conference room so that an elderly patient could participate in a hearing in which she was the subject person.

Similarly, the attendance of applicants and other parties appeared to be reasonably high for substantive matters. While our limited sample of 53 matters seemed to suggest that the GD efforts to encourage the participation of parties were effective, our sample was not representative. To accurately assess attendance at hearings changes need to be made to the paper and CMS records. Specifically:

1. while the Reasons for Decision PDF provides an accurate account of attendance of parties in substantive matters, when more than one matter is heard in the same hearing, care will need to be taken to ensure that it is always indicated which matter(s) an individual is attending for
2. a new field containing reportable data would need to be created to reflect which parties attended for each matter, and
3. consideration could be given to whether party attendance should be routinely collected for procedural matters.

4. Are parties represented and by whom?

In the GD, a party or the subject person can apply for leave to be legally represented. However, this request comprised only 2% of the matters finalised in 2015. If granted, leave to be represented usually applies to other matters pending at the Tribunal at that time. The GD itself can also appoint a 'Separate Representative' for a subject person who is totally or partially incapable of representing himself or herself. This was a similarly infrequent application type which comprised only 3% of the matters finalised in 2015.

While the above figures give an accurate picture of the limited amount legal representation that is formally sought in GD matters overall, to link legal representation to particular matters, and at particular stages, is a less straightforward task. For instance, an application for representation appears as a matter type and it is linked in the CMS to the substantive matters to which it applies. To ascertain if leave was granted one would need to check the orders made relating to the application for representation. Further, should leave for representation be granted, any specifications regarding which aspects of the related matter this representation relates to would need to be checked.

Should NCAT wish to report on which specific matters involve legal representation, and at which specific stages, new data fields would be required specifically for this purpose.

5. How do matters progress to finalisation?

In our GD sample of 53 cases, the vast majority of matters were heard and resolved by an order at the first planned hearing regarding that matter. However, various file notes and documents sighted in our GD casefile analysis evidenced the extent of preparatory work undertaken by Tribunal Officers to ensure the smooth progress of matters at hearing.

GD staff prepare hearings to run smoothly and effectively by:

- triaging and conducting risk and complexity assessments of all new substantive matters (not interlocutory matters)
- contacting parties regarding hearing attendance
- preparing information
- ensuring any requirements (security, interpreters, teleconference) are organised for the hearing to successfully progress.

A limitation in only counting hearings, hearing days or orders is that the value and impact of this preparatory work is lost. GD staff advise that a review of correspondence in, file notes, event history and the document summary provides an indication of the work taken by the registry staff. This information can be gathered from the files and in the CMS as lists with dates.

Other options in future investigations of how matters progress might include factoring in the complexity and risk ratings for GD matters.

6. How long do matters take?

Data quality of lodgement and finalisation dates

In our analyses of 53 casefiles, we compared the CMS data field **Date Application Received** against the paper files and found the CMS to be accurate for straightforward applications. Occasionally it was more difficult to verify the date that interlocutories were applied for. As discussed below statutory reviews do not involve applications and also present a challenge in calculating time to finalisation.

While the CMS data field **Date Application Received** appeared to be reasonably accurate we were not given this field in the unit record data provided by GD. Instead we were given a different field that appears to reflect the date the matter was registered with the GD rather than lodged. We found that this field often differed to the date of lodgement recorded on the paper application forms. In our (non-representative) sample of 53 casefiles, there were 25 that differed, with 8 differing by more than 3 days.

Date of finalisation (the date the order was made), on the other hand, appears to be well recorded on the CMS, with only 4 of the casefiles we reviewed having a different date. Two of our casefiles had a lodgement date that post-dated the order date in the CMS. One of these appeared to be due to an incorrect lodgement data recorded on the CMS. The incorrect recording of lodgement date may explain the number of matters (155 of the matters finalised in 2015) where the finalisation date pre-dated the lodgement date.

We therefore recommend that the field **Date Application Received** (rather than date registered) be used for timeliness date. In addition, we recommend that prior to any analyses lodgement date data would need to be carefully audited and cleaned.

Finally, we recommend that the GD consider reviewing the conventions it uses for recording the lodgement date of Statutory reviews. Statutory reviews are presently automatically generated on the CMS as a matter at the time of the original order and the lodgement date of this review/matter is the date of the decision of the original order. For example, if there was a guardianship order made for 1 July 2014 for 12 months, the application date for the review would be 1 July 2014 (not 1 July 2015 as one might expect). This cannot be easily corrected given that orders are not of a set length and can vary in their duration. Statutory reviews are therefore not presently included in GD timeliness reporting.

Noting the concerns regarding the data outlined above, Table 2 below gives an indication of the average days from registration to finalisation of applications in GD for matters finalised in 2015.

Table 2: Average days from registered date to finalisation of applications in GD for matters finalised in 2015, by method of finalisation.

	At hearing	Other method	All	
	N = 8,173	N = 1,176	N = 9,349	
	mean days	mean days	mean days	N
Guardianship Application	65	69	65	3,259
Financial Management Application	74	76	74	3,143
Procedural matters/directions	11	37	12	1,341
Requested reviews/recognition of orders	84	48	80	1,275
Others (consent for/medical dental treatment, clinical trials others)	18	196	23	331
All the above	**60**	**69**	**61**	**9,349**

Source: GD CMS data for matters finalised at hearing or in some other way in 2015
Notes: Excluded are statutory review matters (n=2633) and matters recorded as lodged in the year1902 (n=19) or missing date registered (n=11) and those where the hearing/finalisation date pre-dated the "registration date" (n=155). Included are 449 matters that lodged and finalised on the same day.

7. How are GD matters finalised or resolved?

In the GD, the vast majority of matters (87%) result in a hearing in which an order is made. In the 13% of matters that did not involve a hearing this was most often because the subject person had died (50% of those not involving a hearing) or the application had been withdrawn (39%).

Applications can only be withdrawn with the permission of the Tribunal. The Tribunal must be satisfied that there is no longer a need for an order to be made for the person who is the subject of the application. The applicant must complete a Request to withdraw a GD application[5] and provide evidence about how the issues that prompted the application have been resolved.

Orders made at hearing

In our GD sample of 53 cases the vast majority of matters were heard and resolved by an order at the first planned hearing regarding that matter.

The CMS lists the order type, date of order and if relevant the duration and expiry date. Length of orders is unique to GD because of the ongoing relationship and obligations the GD has to subject persons. We found in our fieldwork that the CMS reflects the outcomes noted on paper, but sometimes there were additional details regarding the limits of an order, or other specific details to be found only on the paper files.

Tables 3 through to 8 below, outline the orders made for matters that were finalised at hearing in 2015. Our non-representative sample of 53 casefiles supports the accuracy of this data.

Table 3: Orders made for guardianship applications finalised in 2015

Order Made	N	%
Guardianship Order Made – Continuing Limited	1,474	53.4
Non-Reviewable Guardianship Order Made – Continuing Limited	119	4.3
Application Dismissed	613	22.2
Application Withdrawn – Dismissed	483	17.5
Other order	72	2.6
Total	**2,761**	**100.0**

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015.

[5] Available at http://www.ncat.nsw.gov.au/Documents/gd_form_request_to_withdraw_an_application.pdf

Table 4: Orders made for financial management applications finalised in 2015

Order Made	N	%
Financial Management Order made	1,715	63.4
FM order with review	212	7.8
FM order made with exclusion	59	2.2
Application Dismissed	347	12.8
Application Withdrawn – Dismissed	349	12.9
Other	21	0.8
Total	**2,703**	**100.0**

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015.

Table 5: Orders made for statutory reviews finalised in 2015

Order Made	N	%
Guardianship Order Lapsed	883	38.6
Order renewed & varied – Continuing Limited	646	28.2
Order renewed and not varied – Continuing Limited	366	16.0
FM Order confirmed	147	6.4
FM Order revoked – best interests	78	3.4
Non-Reviewable Guardianship Order Made – Continuing Limited	61	2.7
Other order	109	4.8
Total	**2290**	100.0

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015.

Table 6: Orders made for procedural matters finalised in 2015

Order Made	N	%
Separate Representative appointed	356	25.9
Directions made	219	16.0
Leave for Legal Representation granted	170	12.4
Party joined	151	11.0
Adjournment Granted	144	10.5
Leave for Legal Representation refused	78	5.7
Directions not made	55	4.0
Adjournment Declined	35	2.6
Party not joined	37	2.7
Application Withdrawn – Dismissed	33	2.4
Summons refused	30	2.2
Other order	64	4.7
Total	**1372**	**100.0**

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015.

Table 7: Orders made for requested reviews/recognition of orders finalised in 2015

Order Made	N	%
Financial Manager – Appointment Revoked – Manager replaced	176	15.3
Guardianship Order Varied – Continuing Limited	155	13.4
Application Dismissed	133	11.5
FM Order revoked – best interests	123	10.7
Application Withdrawn – Dismissed	112	9.7
FM Order confirmed	74	6.4
FM Order revoked – regained capacity	41	3.6
Decision not to Review and Dismiss	39	3.4
Enduring Guardianship – appointment revoked	32	2.8
Decision to review and make no orders & dismiss	30	2.6
Guardianship Order Confirmed	21	1.8
Guardianship Order Revoked	21	1.8
Enduring Guardianship – appointment confirmed	20	1.7
Decision to treat as FM application	17	1.5
FM order varied – to exclude/include	14	1.2
Other order	146	12.7
Total	**1154**	**100.0**

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015.

Table 8: Orders made for other matters finalised in 2015

Order Made	N	%
Consent to treatment given	251	74.5
Application Dismissed	45	13.4
Application Withdrawn – Dismissed	24	7.1
Costs refused	6	1.8
Consent to treatment refused	5	1.5
Other orders	6	1.8
Total	**337**	**100.0**

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015.

Unlike the other Divisions in which opposing parties generally seek to resolve a dispute between them, the GD is focused on meeting the needs of the subject person. Outcomes in the GD may more appropriately be understood as carefully determined decisions that are in the best interests of the subject person. No single statistically reportable field can indicate such an outcome. The GD aims to deal with a range of complex matters sensitively and appropriately, all the while protecting vulnerable people. Therefore, the reasons for decisions provided for orders made regarding each substantive matter (and on application for other matters) are the best source to assess appropriate outcomes in the GD. A PDF copy of the Reasons for Decision can be accessed through the CMS **Order – view document** field.

8. Suggestions for improving the utility of GD data

This section will summarise the key findings of the Foundation's review of GD CMS data for the purpose of maximising its utility for NCAT reporting and policy planning. For this purpose, we suggest that:

1. Any changes or utilisation of GD data needs to recognise certain unique features of the GD, and functionalities of the current CMS:
    a. Statutory obligations to and often long term association with the subject person
    b. The subject person being the primary unit of measure and that all fields relate to
    c. The need to facilitate the participation of and the ongoing contact with the subject person and related persons
2. New fields are required to allow for a reportable, accurate and complete list of the parties involved in specific matters.
3. New fields are required to allow for a reportable, accurate list of which parties attended hearings for each matter. Consideration to be given to whether party attendance should also be routinely collected for procedural matters.
4. While overall rates of legal representation can be reported from the CMS, amendments would facilitate linking representation to specific matters.
5. The date applications are received, rather than registered, to be used for timeliness data. This data to be audited and cleaned before it is combined with hearing and finalisation dates for reporting purposes.

Technical Note

GD CMS – complete list of fields.

Field
Client
*Client details**
• Client no*
• Date client number issued
• Name
• Sex
• Marital status
• Asset level
• Date of birth
• Age (years)
• Date of death*
• File details
Address and contact details
• Current address
• Postal address
• Contact details
Cultural details
• Does the person speak a language other than English at home?
• Does the person identify with a particular culture
Disability
• Broad disability (e.g. Dementia)
• Specific disability (e.g. Alzheimer's disease)
• Is capacity disputed?
• Accommodation type (e.g. Retirement village)
Background/History
• Free text notes pages on client background and history
Matter
*Matter details**
• Matter number*
• Date application received*
• Date application registered
• Online application
• Application type*
• Matter type*
• Related to substantive matter/s*
• Risk*
• Complexity*
• Treatment
• Related to appeal matter
• Acknowledgement letter sent & date
• Schedule by date
• Issues raised during application (e.g. Access – dispute between parties)
• Other identifying data (e.g. self-applicant)*

Field
• Does the client know about the application
*Matter contacts**
• Contacts for the matter
• Contact name*
• Contact type (e.g. party / interested person / applicant / proposed financial manager)*
Scheduling request
• Member requests
• Presiding
• Professional
• Legal
• Community
• Other
• Particular expertise required
• Interpreter required and language
• Time required
• Recommended location
• Suitable for single member hearing
• Security required
• Hearing loop/wand
• Instructions for scheduling
• Is a preliminary hearing required
• Is a directions hearing required
Issues for hearing
• List of issues for hearing (e.g. capability of client), free text
Interstate orders
• Interstate order made by
• Financial management order
• Order date
• Expiry date
• Review date
• Guardianship order
• Order date
• Expiry date
• Review date
Client contact
List of the names of client contacts
• Contact details*
• Relationship with client (e.g. Guardian)*
• Active
• Contact position
• Personal details
• Contact details
• Address
• Current address
• Postal address
List of inactive contacts
• Contact details*
• Relationship with client (e.g. Guardian)*
• Active
• Contact position

Field
• Personal details
• Contact details
• Address
• Current address
• Postal address
File note
• Category (e.g. application management team / client enquiry)
• Free text notes page where notes can be entered*
• Entered by
• Officer
• Date entered
• Time entered
Order
• Orders listed by date of order (e.g. 22/07/2016 – Review Reviewable FM)*
• Order details*
• Hearing*
• Order type (e.g. Financial management)*
• Order no*
• Matter*
• Order (e.g. Financial management order with review period) *
• Date of order*
• Duration (e.g. 12) *
• Period (e.g. months) *
• Expiry date of order*
• Date of previous order*
• Expiry date of previous order*
• Appointment details*
• View document*
• Opens word document version of order*
• Clauses (e.g. NSW Trustee to pay estate to client)
Hearing
• Hearings listed by date and time of hearing with order under the hearing* *e.g. 22/07/2016 3:30PM FM order confirmed*
*Hearing details**
• Date*
• Start time*
• Tribunal number*
• Hearing type*
• Location*
• Venue*
• Members
• Presiding
• Legal
• Professional
• Community
• Other
• Matter number*
• Matter type*
• Assigned (to hearing) – tick box
• Evidence assigned to hearing
Requirements

Field
• Date notices required to be sent
• Date notices sent
• Date report due
• Contact by date
• Interpreter (e.g. Required / not required) *
• Language
• Language spoken at home
• Interpreter name*
• Interpreter by phone*
• Telephone interpreter booking no. *
• Security required (e.g. yes / no) *
• Hearing loop / wand
• Contacts*
• Contact name
• Relationship
• Availability (indicated)
Documents for hearing – internal
• List of internal documents for hearing (e.g. hearing notices)
Documents for hearing – external
• List of external documents for hearing (e.g. application / report)
Note to Tribunal
• Free text notes page for any notes for the hearing (e.g. X contact will be available on 029XXXXXXX phone number should the Tribunal need to contact).
Hearing summary
• List of hearings related to client including details:
• Date
• Start time
• Hearing type
• Location
• Venue
• Tribunal No.
• Presiding member
Client address history
• List of addresses related to client including details:
• Address
• Suburb
• State
• Postcode
• Country
• Date modified
• Postal address
Enquiry history
• List of enquiries related to client including details:
• Enquiry number
• Date
• Time
• Caller name
• Relationship
• Issues raised

Field
File history
File location history
• List of history of the file location including details:
• File location
• Box no
• Shelf no
• Parts
• Start date
• End date
File status history
• File status (e.g. Active)
• Start date
• End date
Case officer history
• List of history of the client case officers including details:
• Case officer
• Position
• Start date
• End date
Correspondence in history
• List of history of the correspondence including details: *
• No
• Date
• Sender
• Delivery method (e.g. mail / email)
• Recipient
• Type (e.g. email / letter)
Event history
• List of history of the events relating to client including details: *
• Matter no
• Date
• Type (e.g. Client modified / hearing outcome entered / etc.)
• Action date
• User name

Note: Field names marked with asterisk (*) were used in the casefiles review.

Annex Tables

Matter type subcategories

Table 1 in this report lists all matters finalised in 2015 according to categories grouped by the Foundation. The matter categories with subcategories are detailed in Tables A.1-A.4 below.

Table A.1: Statutory review subcategories finalised in 2015

	Matters finalised	% Stat reviews
Statutory Review of Guardianship Order	2,271	86.3
Statutory Review of Reviewable Financial Management Order	314	11.9
Statutory Review of Recognition of FM Appointment	29	1.1
Statutory Review of Recognition of Guardianship Appointment	19	0.7
Total	**2,633**	**100.0**

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015.

Table A.2: Procedural matters/directions subcategories finalised in 2015

	Matters finalised	% Procedural matters
Appointment of Separate Representative	358	25.1
Application for Legal Representation	278	19.5
Directions	276	19.4
Application to be Joined as a Party	199	14.0
Application to adjourn a matter	197	13.8
Application for issue of a summons	104	7.3
Application to Revoke Legal Representation	8	0.6
Application for non-legal Representation	3	0.2
SET ASIDE	3	0.2
Total	**1,426**	**100.0**

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015.

Table A.3: Requested reviews/recognition of interstate orders subcategories finalised in 2015

	Matters finalised	% Req/recog orders
Application to replace financial manager	309	24.0
Application to revoke FM Order	283	21.9
Requested Review of Guardianship Order	238	18.4
Enduring Power of Attorney – Application to Review Making / Review Operation	205	15.9
Enduring Guardianship – Application for review of appointment	129	10.0
Application to Review Financial Management Order	42	3.3
Enduring Power of Attorney – Application to Review Revocation	35	2.7
Application for Recognition of FM Interstate Appointment	32	2.5
Application for Recognition of Guardianship Interstate Appointment	16	1.2
Enduring Guardianship – Application to declare appointment has effect	1	0.1
Total	**1,290**	**100.0**

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015.

Table A.4: Other matter subcategories finalised in 2015

	Matters finalised	% Other matters
Application for Medical Consent	295	81.7
Application for Special Medical – androgen reducing	21	5.8
Application for Costs	12	3.3
MIG (Migrated from prior system)	12	3.3
Application for Consent to Special Medical Treatment – Sterilisation	8	2.2
Application to Publish or Broadcast	3	0.8
Application for Consent to Special Medical Treatment	3	0.8
Application for consent to participate in approved Clinical Trial	2	0.6
CAPACITY	1	0.3
Application to appoint a Guardian Ad Litem	1	0.3
INTERESTS	1	0.3
Application for Directions to Guardian	1	0.3
Application for Consent to Special Medical Treatment – Termination	1	0.3
Total	**361**	**100.0**

Source: Unit record data provided by the GD of all matters finalised between 1 January and 31 December 2015.