

# CHAPTER 3

// Our performance

This chapter reports on the AAT's activities and performance during the reporting year and includes:

- the annual performance statement setting out our results against the performance criteria specified in the Portfolio Budget Statements and our Corporate Plan
- discussion of our financial performance
- information on our caseload and the operation of our divisions, and
- other information relevant to assessing how we are meeting our statutory objective.

# Annual performance statement

## Introductory statement

I, Sian Leathem, as the accountable authority of the AAT present the 2015–16 annual performance statement of the AAT, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013*. In my opinion, this annual performance statement is based on properly maintained records, accurately reflects the performance of the entity, and complies with subsection 39(2) of the *Public Governance, Performance and Accountability Act*.

## Our purpose

As set out in our Corporate Plan, the AAT provides independent merits review of administrative decisions. Our purpose is related to the single outcome and programme that we administer as described in Chapter 2 of this report.

## Results

### Performance criterion 1: Number of applications finalised

40,669 applications finalised in 2015–16, comprising 6,535 applications finalised without a hearing and 34,134 applications finalised with a hearing

### Criterion source

AAT Corporate Plan 2015–16 (page 6) and Programme 1.1, 2015–16 Portfolio Budget Statements, Attorney-General's Portfolio (page 66)

### Result against performance criterion

In 2015–16, the AAT finalised 38,146 applications: 14,003 applications finalised without a hearing and 24,143 applications finalised with a hearing.

The total number of applications finalised in 2015–16 was six per cent lower than the estimate set out in the Portfolio Budget Statements. This can be attributed primarily to fewer applications being finalised in the Migration and Refugee Division due to reduced member appointments and the AAT receiving a lower than expected number of applications for review of decisions relating to the National Disability Insurance Scheme during the trial period.

The variation between the estimates and actual results for the number of applications finalised with and without a hearing relates to the way in which those estimates were derived. The estimate for applications to be finalised without a hearing in 2015–16 did not include an estimate for the number of applications that would be finalised in that way in the Migration and Refugee Division and Social Services and Child Support

Division. The estimate for the number of applications to be finalised with a hearing included all anticipated finalisations in those divisions. The actual results for the number of applications finalised without a hearing includes applications finalised in any division other than by way of a formal decision of the Tribunal determining the merits of an application, resulting in a higher number of applications finalised without a hearing and a lower number of applications finalised with a hearing.

Further information relating to the number of applications finalised by division can be found later in this chapter.

### **Performance criterion 2: Timeliness of finalisation of applications**

75 per cent of applications finalised within 12 months of lodgement in 2015–16

#### **Criterion source**

AAT Corporate Plan 2015–16 (pages 6-7) and Programme 1.1, 2015–16 AAT Portfolio Budget Statements, Attorney-General's Portfolio (page 66)

#### **Result against performance criterion**

In 2015–16, 80 per cent of applications were finalised within 12 months of lodgement, five percentage points above the target.

The time taken to finalise applications varies between the AAT's divisions and for different types of cases within divisions. This reflects a diverse range of factors, including differences in the procedures that apply to the review of decisions across divisions, the nature and complexity of the different types of cases, the priority given to certain types of cases and the overall level of resources available to deal with applications. While we exceeded our overall target and either improved or maintained our timeliness performance in some areas, we did take longer to finalise applications in some other areas of our work during the reporting period. This can be attributed primarily to reductions and uncertainties in relation to member appointments.

Further information relating to the timeliness of the review process by division can be found later in this chapter.

### **Performance criterion 3: Judicial review outcomes**

Less than five per cent of all decisions that have been made by the AAT are set aside on judicial review

#### **Criterion source**

AAT Corporate Plan 2015–16 (page 7)

#### **Result against performance criterion**

The number of appeals allowed in 2015–16 amounted to 3.3 per cent of all decisions made by the amalgamating tribunals in 2014–15 that could have been appealed to the courts.

While the proportion of decisions set aside by the courts during the reporting period is well within the standard, it is higher than it would otherwise have been as a result of two decisions of the Full Court of the Federal Court that overturned previous judicial interpretation of aspects of the migration law which the former MRT and RRT and the Migration and Refugee Division were bound to apply. Forty per cent of the 723 decisions of the Migration and Refugee Division and the former MRT and RRT that were set aside by the courts during the reporting period were set aside as a result of these decisions. Overall, the number of decisions set aside by the courts as a proportion of all appealable decisions remains low.

Further information relating to outcomes of appeals by division can be found later in this chapter.

#### **Performance criterion 4: Customer satisfaction feedback**

The AAT will ask applicants and other stakeholders to share their views about the AAT's services, including by way of a targeted survey in the first half of 2016. The AAT will ask respondents, among other things, about their perception of the AAT's accessibility, fairness, informality and timeliness.

#### **Criterion source**

AAT Corporate Plan 2015–16 (page 7)

#### **Result against performance criterion**

The AAT engaged ORIMA Research to conduct a user feedback survey in May 2016. A sample of parties and representatives who were involved in cases finalised by the AAT between 1 July 2015 and 29 February 2016 were invited to complete an online questionnaire. The survey asked users for their views on a range of matters, including the process of applying for a review, our website and written communications, dealings with staff, conferences and hearings as well as perceptions of the process overall.

Surveys were completed by 784 parties and 477 legal and other representatives. Overall, parties and representatives were positive in their assessment of the services provided by the Tribunal across the factors measured in the survey.

Further information relating to the survey can be found later in this chapter.

## **Analysis of performance against our purpose**

The amalgamation of the Migration Review Tribunal, Refugee Review Tribunal and Social Security Appeals Tribunal with the AAT on 1 July 2015 involved significant change for the Tribunal and our members and staff. Notwithstanding the scale of the change, we were effective in the reporting year in achieving our purpose of providing a mechanism of review of administrative decisions in accordance with our statutory objective. We achieved our planned results in relation to timeliness and quality of decision-making, and obtained positive user feedback about our services. We also largely achieved the planned result in relation to our output with the shortfall in the number of applications finalised attributable primarily to factors beyond the Tribunal's control. As a result of our work during 2015–16, a significant number of individuals and organisations were able to exercise their right to challenge administrative decisions, contributing to the accountability and transparency of government.

## **Financial performance**

When the MRT, RRT and SSAT merged with the AAT on 1 July 2015, all assets, liabilities and commitments of the MRT, RRT and SSAT were transferred to the AAT. We continue to operate as a non-corporate Commonwealth entity under the Public Governance, Performance and Accountability Act and are prescribed as a single non-corporate entity for the purposes of the Act.

The Tribunal was funded in 2015–16 based on a model which took into account the existing funding models of the amalgamating tribunals, including the demand-driven funding model of the MRT and RRT which has regard to the number of reviews finalised. We finalised 38,146 applications in 2015–16 and the revenue as set out below has taken into account an adjustment to appropriation based on the actual number of reviews finalised in the Migration and Refugee Division.

The AAT's financial performance in 2015–16 reflects a challenging first year of amalgamated operations, a tight fiscal environment and complex operational demands. There were challenges in managing savings arising from amalgamation, particularly in relation to the consolidation of our registries, whole-of-government

savings initiatives, including portfolio-specific savings, and delays in member appointments which affected the number of finalisations and related funding. The 2015–16 financial statements report total revenues from ordinary activities of \$125.8 million and expenditure of \$133.9 million. Excluding depreciation worth \$7.4 million, this resulted in a net deficit of \$0.7 million.

The AAT administered application fees on behalf of the Government. Details of administered revenue are set out in the financial statements.

The financial statements for 2015–16, which commence on page 59, have been audited by the Australian National Audit Office.

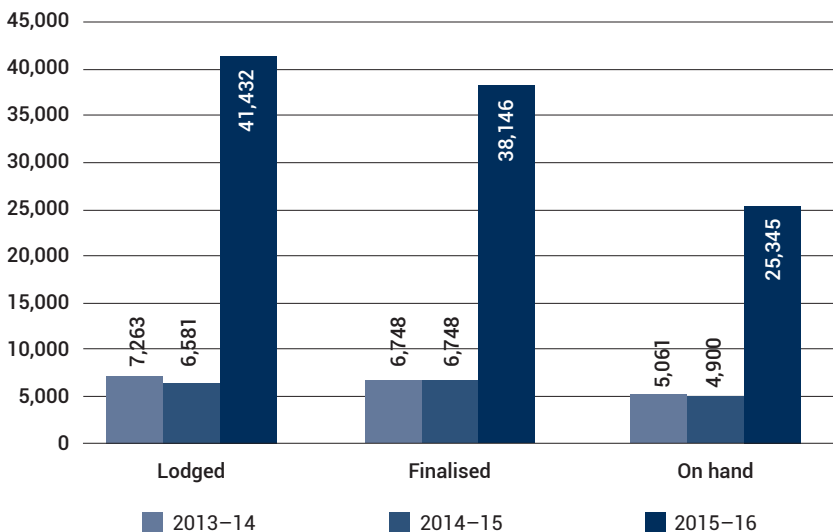
The tables summarising our total resourcing and the total payments we made during the reporting period are in Appendix 3.

## Caseload overview

The AAT received 41,432 applications and finalised 38,146 applications in 2015–16. There were 25,345 applications on hand at 30 June 2016.

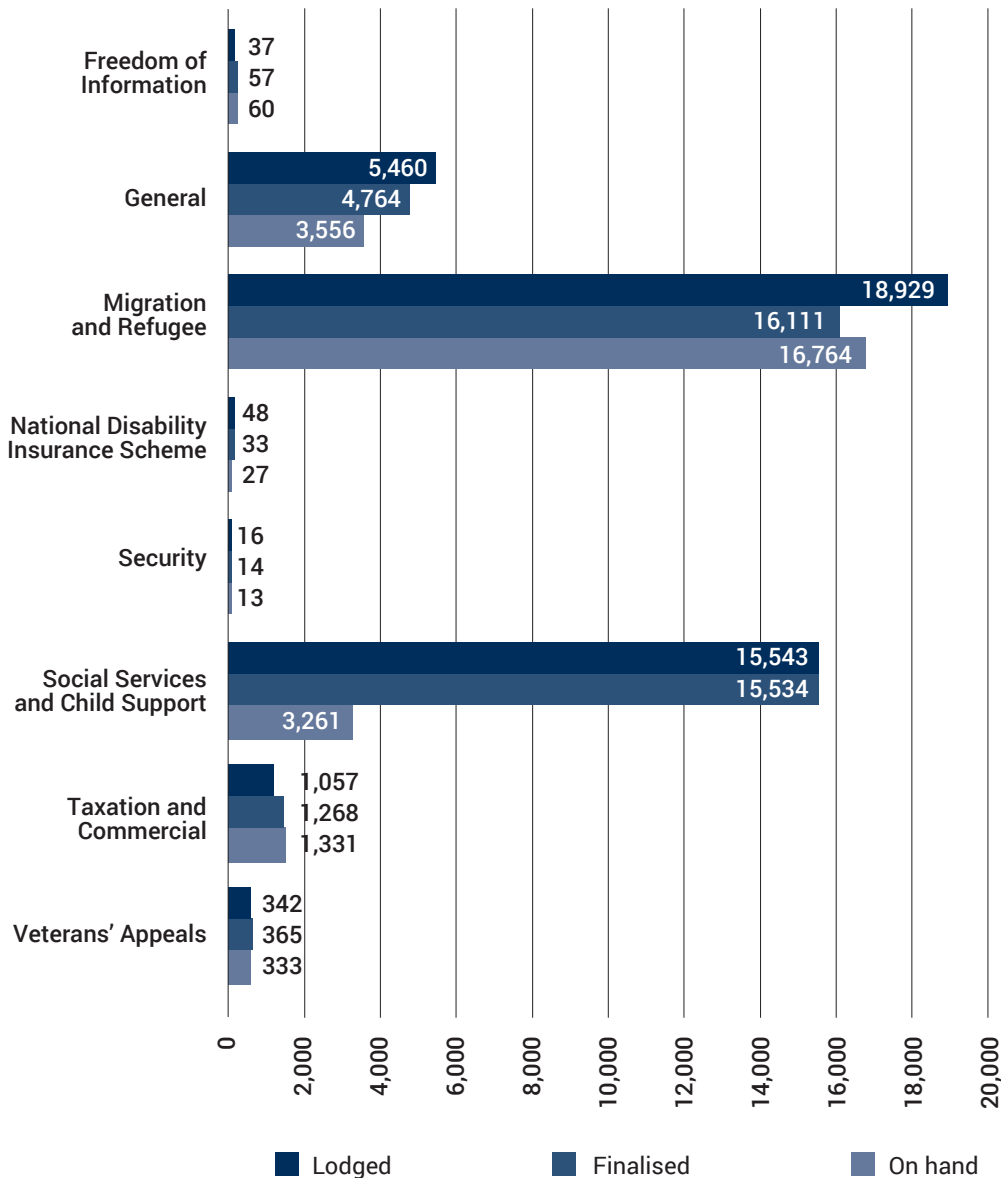
The significant increase in our workload in 2015–16 reflected the amalgamation of the AAT with the MRT, RRT and SSAT on 1 July 2015. Lodgements were more than six times greater than the number of applications lodged in 2014–15, while finalisations grew by more than five times. The number of applications on hand at 30 June 2016 also rose by a factor of five compared to the previous year. Chart 3.1 illustrates the number of applications that were lodged and finalised in the AAT in the last three reporting years, and the number of applications on hand at 30 June in each year.

**Chart 3.1 Total applications lodged, finalised and on hand, 2013–14 to 2015–16**



Comparing the AAT's 2015–16 figures with the combined workload figures for the AAT, MRT, RRT and SSAT for 2014–15, lodgements in the amalgamated tribunal in 2015–16 were three per cent higher than the 40,382 lodgements in 2014–15. Finalisations in the reporting period fell by nine per cent from the 42,108 applications finalised in 2014–15. The overall number of applications on hand at 30 June 2016 is higher than at 30 June 2015.

**Chart 3.2 Applications lodged, finalised and on hand, 2015–16 – By division**



As shown in Chart 3.2, the size of the AAT’s caseload varies significantly between divisions. Almost 46 per cent of lodgements during the reporting year were in the Migration and Refugee Division with close to 38 per cent in the Social Services and Child Support Division and 13 per cent in the General Division. Less than four per cent of lodgements were dealt with in the FOI, NDIS, Security, Taxation and Commercial and Veterans’ Appeals Divisions. There is considerable diversity both between and within divisions in relation to the nature and complexity of the cases that come before the AAT. The resources that need to be applied to the review process vary for different types of cases. The caseload numbers, while indicative, are not a proxy for workload.

The Tribunal was able to keep pace with incoming applications in the FOI, Security, Social Services and Child Support, Taxation and Commercial and Veterans' Appeals Divisions which finalised close to, or more than, the number of applications lodged in the reporting year. Clearance rates were lower in the other divisions.

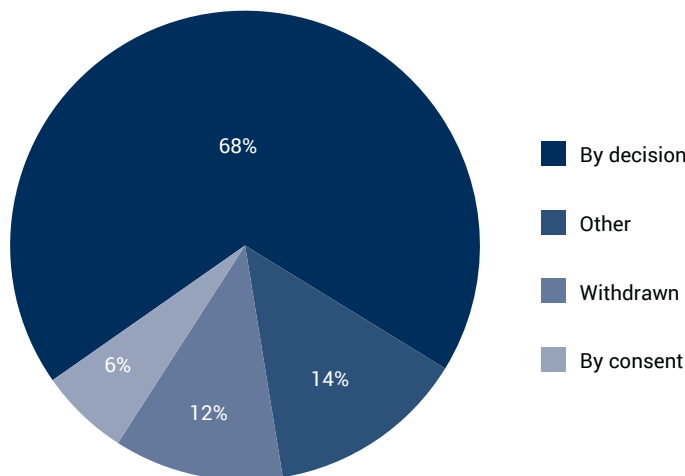
Of the 25,345 applications on hand at 30 June 2016, 66 per cent were applications before the Migration and Refugee Division, 14 per cent were applications before the General Division and 13 per cent were applications before the Social Services and Child Support Division. Applications before the FOI, NDIS, Security, Taxation and Commercial and Veterans' Appeals Divisions made up the remaining seven per cent of current applications.

More detailed information about the operations of the AAT's divisions is set out below. Information about the types of applications lodged and finalised in 2015–16 is also available in Appendix 4.

Applications made to the AAT may be finalised in different ways as illustrated in Chart 3.3. In 2015–16, the majority of applications were finalised by the Tribunal making a decision on the review, generally after conducting a hearing but also, where permitted, by making a decision on the papers. In six per cent of applications, the reviewable decision was either affirmed, varied or set aside in accordance with an agreement reached between the parties. Approximately one-quarter of applications were withdrawn, dismissed or otherwise finalised without a review being completed.

The Tribunal changed the decision under review in 28 per cent of all applications finalised in 2015–16. Further information on outcomes of reviews by division and major areas of work within certain divisions is available in Appendix 4.

**Chart 3.3 Mode of finalisation of applications for review of decisions, 2015–16<sup>a</sup>**



<sup>a</sup> 'Other' includes applications in relation to which the AAT had no jurisdiction to review the decision or refused to extend the time for lodging an application, where applicable, and applications otherwise dismissed by the Tribunal.

# Operation of divisions

This section provides more information on the operations of the AAT's eight divisions in 2015–16. As the largest of the AAT's divisions, the Migration and Refugee Division and Social Services and Child Support Division are dealt with separately. The AAT's other divisions are discussed together.

## Freedom of Information, General, National Disability Insurance Scheme, Security, Taxation and Commercial and Veterans' Appeals Divisions

The FOI, General, NDIS, Security, Taxation and Commercial and Veterans' Appeals Divisions deal with applications relating to a very broad range of reviewable decisions. Lodgements grew by six per cent in these divisions in the reporting year: 6,960 applications were lodged compared with 6,581 in 2014–15. Key statistics in relation to caseload and timeliness for each of the divisions and major areas of work within divisions are set out in Table 3.4.

**Table 3.4 Caseload overview, 2015–16 – FOI, General, NDIS, Security, Taxation and Commercial and Veterans' Appeals Divisions**

| DIVISION/AREA OF WORK                    | LODGED       | FINALISED    | ON HAND AT YEAR END | % FINALISED WITHIN 12 MONTHS | MEDIAN TIME TO FINALISE (WEEKS) |
|--|--------------|--------------|---------------------|------------------------------|---------------------------------|
| Freedom of Information                   | 37           | 57           | 60                  | 81%                          | 34                              |
| General                                  | 5,460        | 4,764        | 3,556               | 84%                          | 22                              |
| <i>Centrelink (2nd review)</i>           | 2,463        | 2,314        | 1,224               | 92%                          | 20                              |
| <i>Workers' compensation<sup>a</sup></i> | 1,797        | 1,373        | 1,756               | 65%                          | 41                              |
| <i>Other</i>                             | 1,200        | 1,077        | 576                 | 91%                          | 12                              |
| National Disability Insurance Scheme     | 48           | 33           | 27                  | 97%                          | 17                              |
| Security                                 | 16           | 14           | 13                  | 64%                          | 29                              |
| Taxation and Commercial                  | 1,057        | 1,268        | 1,331               | 71%                          | 30                              |
| <i>Taxation</i>                          | 921          | 1,136        | 1,251               | 68%                          | 32                              |
| <i>Other<sup>b</sup></i>                 | 136          | 132          | 80                  | 82%                          | 24                              |
| Veterans' Appeals                        | 342          | 365          | 333                 | 66%                          | 40                              |
| <b>TOTAL</b>                             | <b>6,960</b> | <b>6,501</b> | <b>5,320</b>        | <b>79%</b>                   | <b>26</b>                       |

<sup>a</sup> These figures include applications for the review of decisions about defence-related claims under the *Safety, Rehabilitation and Compensation Act 1988* which are formally allocated to the Veterans' Appeals Division.

<sup>b</sup> These figures include all non-taxation applications managed within the Taxation and Commercial Division whether or not formally allocated to that division: see the Review of Taxation and Commercial Decisions Practice Direction.

The General Division has the largest caseload of these divisions with two significant areas of work: second review of Centrelink decisions and the review of decisions made under Commonwealth workers' compensation schemes.

There was a six per cent increase in applications for second review of Centrelink decisions in 2015–16, reflecting the higher number of first review applications finalised by the Social Services and Child Support Division in the reporting year. Fifty-eight per cent of second review applications related to disability support pension. Two case management pilots continued in the reporting year in the Adelaide and Sydney registries.



The pilots used Integrated Case Assessment Teams to conduct an early assessment of applications with certain cases fast-tracked to resolution. Evaluation of the pilots indicated that a majority of cases selected for fast tracking were able to be finalised within 10 weeks of lodgement. Early case assessment and fast track processes are being further considered for other registries and jurisdictions.

Lodgements in the workers' compensation jurisdiction increased by 20 per cent in 2015–16, with a 31 per cent rise in the number of applications on hand at 30 June 2016. A significant amount of investigation and evidence gathering takes place only after the review process begins in this jurisdiction. The proportion of applications finalised within 12 months remained at 65 per cent as in 2014–15. With the increase in lodgements and on hand applications, we will need to monitor this caseload closely to ensure applications are being progressed as efficiently and effectively as possible. The AAT's Director, Alternative Dispute Resolution ran a number of workshops with Comcare representatives during the reporting year which explored potential case management process improvements and how to make the most effective use of ADR processes.

Among the many other types of applications made in the General Division, the AAT received the first application for a review of a decision made under a Norfolk Island law in 2015–16.

The FOI Division deals with applications for the review of decisions made under the *Freedom of Information Act 1982* as well as decisions made under the *Archives Act 1983* (except for those in respect of access to a record of the Australian Security Intelligence Organisation) and the *Privacy Act 1988*. Only a relatively small number of applications of this kind were lodged during the reporting year, less than half the number lodged in 2014–15. In particular, there were fewer applications lodged as a result of the Australian Information Commissioner deciding not to undertake a review.

The NDIS Division reviews decisions made under the *National Disability Insurance Scheme Act 2013*. Since the trial phase commenced on 1 July 2013, the NDIS has been rolled out to some 30,000 people. Over the three-year period to 30 June 2016, 85 applications have been lodged with the AAT and 58 applications finalised: 28 by parties reaching an agreement, seven finalised by way of a Tribunal decision following a hearing and 23 applications withdrawn or dismissed. The 48 applications lodged in 2015–16 were more than double the number lodged in 2014–15. As the Scheme is fully rolled out over the three years from 1 July 2016 to reach 460,000 Australians, the number of applications made to the NDIS Division is expected to increase significantly.

The Security Division deals with applications about security assessments made under the *Australian Security Intelligence Organisation Act 1979* and applications about decisions under the *Archives Act 1983* in respect of access to an ASIO record. While there was a slight increase in the number of applications lodged during the reporting year, the overall numbers remained small.

On 1 July 2015, the Taxation and Commercial Division replaced the previous Taxation Appeals Division and the Small Taxation Claims Tribunal. The Division aims to provide a process tailored to meet the needs of taxpayers, businesses, not-for-profit organisations and persons in regulated professions seeking review of decisions of key regulators and decision-makers, including the Australian Financial Security Authority, the Australian Securities and Investments Commission, the Australian Taxation Office, the Civil Aviation Safety Authority and the Tax Practitioners Board. Applications are overseen nationally by the Division Head and managed in accordance with the Review of Taxation and Commercial Decisions Practice Direction. Applications are generally allocated to a member who manages the case from lodgement to finalisation, working with the parties to tailor a case management strategy that will most effectively deal with the real issues in dispute and achieve resolution by way of agreement through the use of ADR or by the AAT making a decision.

The number of applications for review of taxation decisions lodged in 2015–16 was 13 per cent lower than the number lodged in 2014–15, continuing the trend from the previous year. Lodgements in relation to commercial decisions remained relatively steady. The performance of the Division is being carefully monitored. In 2016–17, there will be a review of the practice direction to determine the success of the implemented changes and identify potential improvements.

The Veterans' Appeals Division deals with applications for the review of a range of decisions relating to military compensation and veterans' entitlements, primarily decisions made under the *Military Rehabilitation and Compensation Act 2004* and the *Veterans' Entitlements Act 1986*. There were 13 per cent fewer applications lodged in 2015–16 compared with the previous reporting year. While applications under the Military Rehabilitation and Compensation Act continue to grow, applications relating to entitlement to disability pension under the Veterans' Entitlements Act declined in 2015–16.

In all of these divisions, other than the Security Division, the AAT uses ADR to help the parties try to reach agreement about how their case should be resolved. During the reporting year, 80 per cent of applications were finalised without the Tribunal making a decision following a hearing.

The number of appeals lodged against decisions in these divisions remained low at 79, with 18 fewer appeals lodged than in 2014–15. The Tribunal's decision was set aside in 29 per cent of appeals finalised during the reporting period, five percentage points higher than in the previous year.

A key development for these divisions in 2015–16 was the implementation of an online lodgement system. The introduction of this service provides applicants with a more convenient way of lodging their application and means that online lodgement is now available across all of the AAT's jurisdictions.

We also reviewed our strategy for addressing non-compliance by legal practitioners and other representatives in meeting legislative requirements and Tribunal timeframes. As set out in the AAT's General Practice Direction, the coordinated approach involves national monitoring of non-compliance, drawing instances of repeated non-compliance to a representative's attention and escalating instances of serious non-compliance for further action. Practitioners were advised of this approach in September 2015. The number of instances of serious non-compliance was very low in the reporting period.

## Migration and Refugee Division

The Migration and Refugee Division deals with applications that were previously made to the MRT and RRT. We review decisions made by delegates of the Minister for Immigration and Border Protection under the Migration Act about a wide range of visas which permit non-citizens to travel to, enter and remain in Australia on a temporary or permanent basis. The Division reviews decisions to refuse to grant visas, to cancel visas and to refuse to approve business sponsors, nominated positions and business activities.

In 2015–16, 18,929 applications were lodged with the Division, two per cent more than the number of applications lodged in the MRT and RRT in 2014–15. The majority of the applications related to protection, partner/family, and business or work-related visas. Seventy-one per cent of all lodgements were made online. Key statistics in relation to caseload and timeliness for the major areas of work within the Division are set out in Table 3.5.

**Table 3.5 Caseload overview, 2015–16 – Migration and Refugee Division**

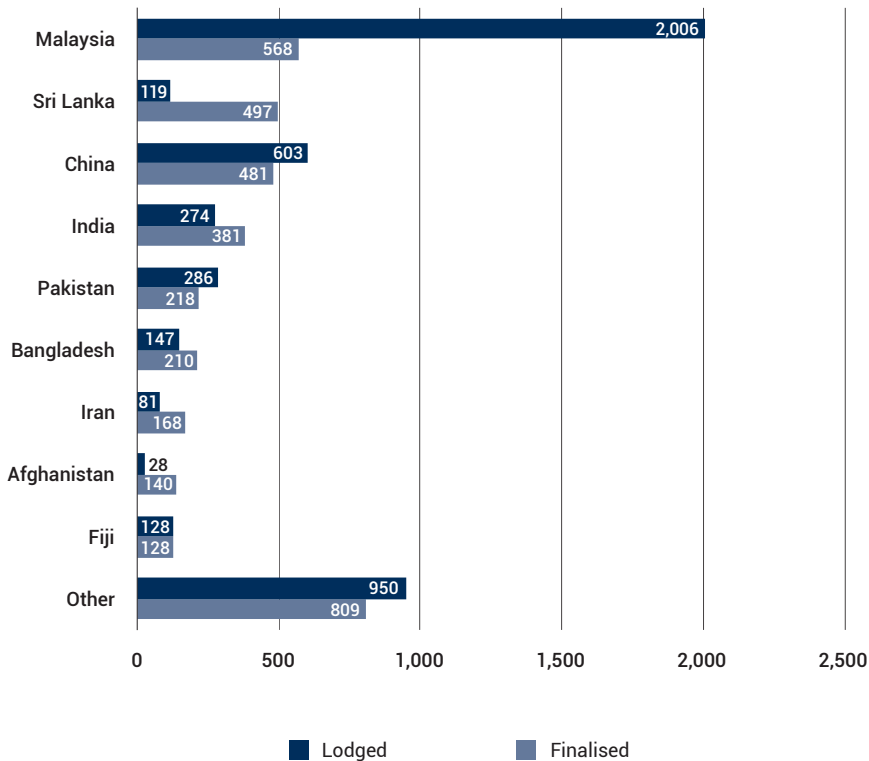
| DIVISION/AREA OF WORK | LODGED        | FINALISED     | ON HAND AT YEAR END | % FINALISED WITHIN 12 MONTHS | MEDIAN TIME TO FINALISE (WEEKS) |
|-----------------------|---------------|---------------|---------------------|------------------------------|---------------------------------|
| <i>Migration</i>      | 14,307        | 12,511        | 11,330              | 67%                          | 36                              |
| <i>Refugee</i>        | 4,622         | 3,600         | 5,434               | 36%                          | 64                              |
| <b>TOTAL</b>          | <b>18,929</b> | <b>16,111</b> | <b>16,764</b>       | <b>60%</b>                   | <b>42</b>                       |

The review of decisions about protection visas involves the AAT considering whether or not the applicant is a person to whom Australia has protection obligations and, in particular, whether they are a refugee or, in the alternative, entitled to complementary protection. This area of work represented approximately one-quarter of all lodgements in the Division in 2015–16, 22 per cent of finalisations and approximately one-third of the Division’s active caseload at 30 June 2016.

Applications for the review of protection visa decisions were 12 per cent higher in 2015–16 than in 2014–15. This can be attributed to a more than fivefold rise in the number of applications relating to Malaysian nationals which constituted 43 per cent of all lodgements concerning protection visas. Applications decreased in relation to nationals from most other countries of origin. Chart 3.6 shows the number of lodgements and finalisations in 2015–16 by country of origin.

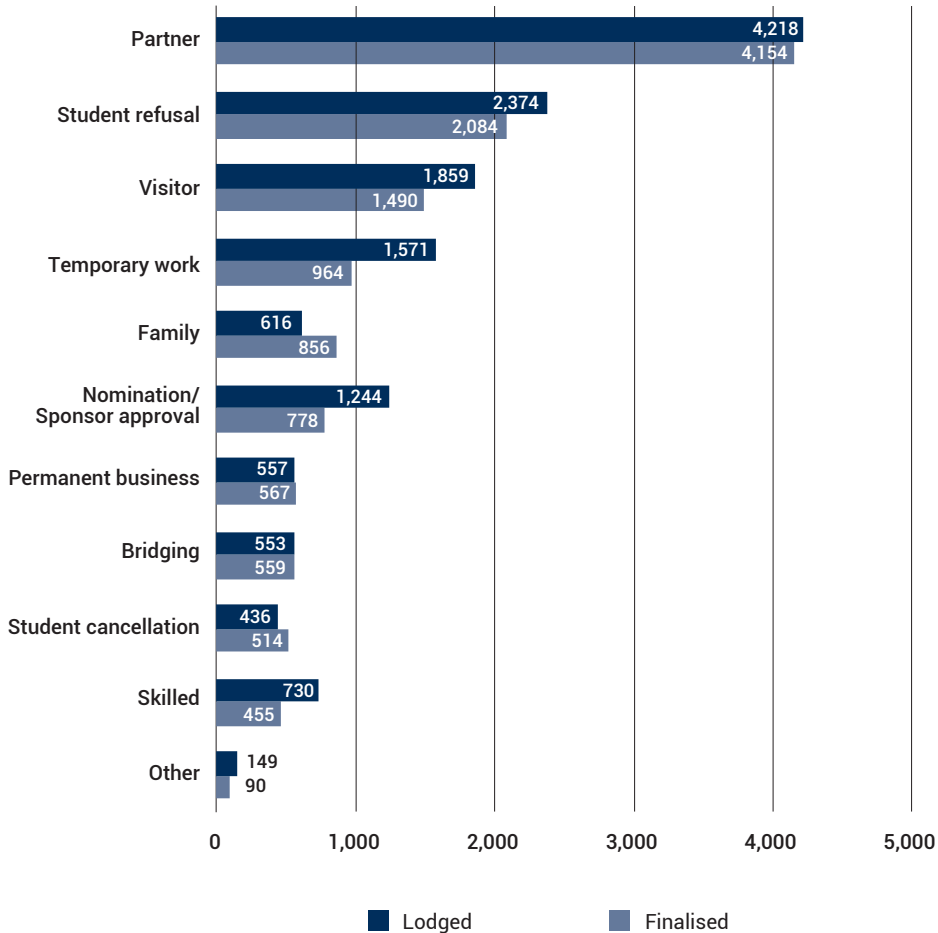
The number of applications relating to protection visa decisions lodged by unauthorised maritime arrivals decreased further from 648 in 2014–15 to 187 in the reporting year. The Division does not review decisions made in relation to unauthorised maritime arrivals who entered Australia after 13 August 2012 and before 1 January 2014. These decisions are reviewed by the Immigration Assessment Authority which is covered in Chapter 5 of this report.

**Chart 3.6 Refugee lodgements and finalisations by country of origin, 2015–16**



The majority of lodgements and finalisations in the Division in 2015–16 related to decisions about other types of permanent migration and temporary entry visas. Chart 3.7 shows the number of applications lodged and finalised by key visa categories in the reporting period.

**Chart 3.7 Migration lodgements and finalisations by key visa categories, 2015–16**



Applications for the review of decisions to either refuse or cancel partner and family visas constituted one-quarter of all lodgements in the Division, 31 per cent of finalisations and 28 per cent of the active caseload at 30 June 2016. Partner visas allow the spouse, prospective spouse or de facto partner of an Australian citizen or permanent resident to live in or visit Australia. Family visas provide for the sponsorship, by Australian citizens and permanent residents, of children, parents and certain other relatives to live in Australia. Lodgements in this caseload declined by two per cent between 2014–15 and 2015–16.

The next most common type of cases were applications relating to business or work visas, including decisions about:

- business skills visas for business people who want to establish or develop a business in Australia
- skilled visas for persons in nominated occupations who have the education, skills and employability to contribute to the Australian economy
- temporary work visas, and
- nomination and sponsorship.

Applications relating to this caseload were 21 per cent of all lodgements, 17 per cent of finalisations and 21 per cent of on hand applications at the end of the reporting year. Lodgements grew by 21 per cent from 2014–15, particularly in relation to temporary work visas and nomination and sponsorship decisions. It continues to be a complex and technical caseload impacted by legislative and regulatory changes.

Applications relating to decisions to refuse or cancel visas concerning students enrolled at schools, colleges and universities in Australia made up 15 per cent of lodgements in 2015–16. Approximately ten per cent of lodgements related to visitor visas for tourists and persons visiting relatives in Australia. Three per cent were about bridging visas which provide temporary lawful status to non-citizens in Australia such as when a temporary entrant is awaiting the outcome of an application for permanent residence. There were 24 per cent fewer applications lodged relating to student visas than in the previous year and an increase of 11 per cent in applications relating to visitor visas.

Four per cent of applications lodged in the Division in 2015–16 involved applicants who were in detention.

The Division's annual caseload strategy takes into consideration the number of active cases in each visa category, projected lodgements, any prioritisation required by legislation or policy, the impact of processing delays on applicants and the availability of resources. We have sought to finalise at least 18,000 cases each year across the range of caseloads, with priority given to bridging visa, detention and cancellation cases.

The volume and the timeliness of finalisations in the Division were significantly impacted by the reduced number of experienced members available to preside on migration and refugee cases during 2015–16. Overall, the equivalent of 16 fewer full-time members were available to deal with applications in the reporting period compared with 2014–15. With the available member resources, we were still able to finalise over 16,000 cases. Over 87 per cent of bridging visa detention cases were finalised within seven days and over 70 per cent of cancellation cases were finalised with 90 days of being constituted to a member for determination. However, finalisations across all other caseloads, particularly the protection visa caseload, were negatively affected.

The challenges for the Division in the future include timeliness in decision-making and strategies to reduce the backlog in the protection visa caseload, which has grown to over 5,000 active cases at 30 June 2016. The Division proposes undertaking a number of projects in 2016–17 to address these issues, including a taskforce focussed on the protection visa caseload. Protection visa cases are generally the most complicated and time-consuming cases given the nature of the claims made and the difficulties in assessing claims about persecution and the risk of harm emanating from the applicant's country of origin.

In relation to the outcomes of reviews, the Division set aside or remitted the decision under review in 37 per cent of finalised cases relating to migration decisions and affirmed the decision in 42 per cent of finalised cases. In relation to refugee decisions, 16 per cent of cases were remitted to the Department with the decision under review affirmed in 70 per cent of cases.

During the reporting period, there were 3,269 applications for judicial review of migration and refugee decisions filed, which constituted 23 per cent of all substantive decisions made. Of judicial review applications finalised in 2015–16, the decision of the Division or the former MRT or RRT was set aside in 24 per cent of appeals. Of these successful appeals, 40 per cent were remitted by consent because of two decisions of the Full Court of the Federal Court that overruled previous judicial interpretation of the law which had been followed by the AAT or the MRT: *Ahmad v Minister for Immigration and Border Protection* [2015] FCAFC 182 and *Waensila v Minister for Immigration and Border Protection* [2016] FCAFC 32. When these cases are excluded, the rate of successful appeals in 2015–16 was 15 per cent, one percentage point lower than in 2014–15. While the proportion of decisions appealed has more than doubled over the last five years, it is pleasing that the percentage of decisions set aside as a result of judicial review has not changed significantly in the last three years.

More detailed statistical information for the Division is available in reports that are published on the AAT website.

# Social Services and Child Support Division

The Social Services and Child Support Division deals with applications previously made to the SSAT. We review a wide range of decisions made by officers of the Department of Human Services, including decisions about:

- social security, family assistance and student assistance entitlements (referred to as Centrelink decisions)
- child support, and
- paid parental leave.

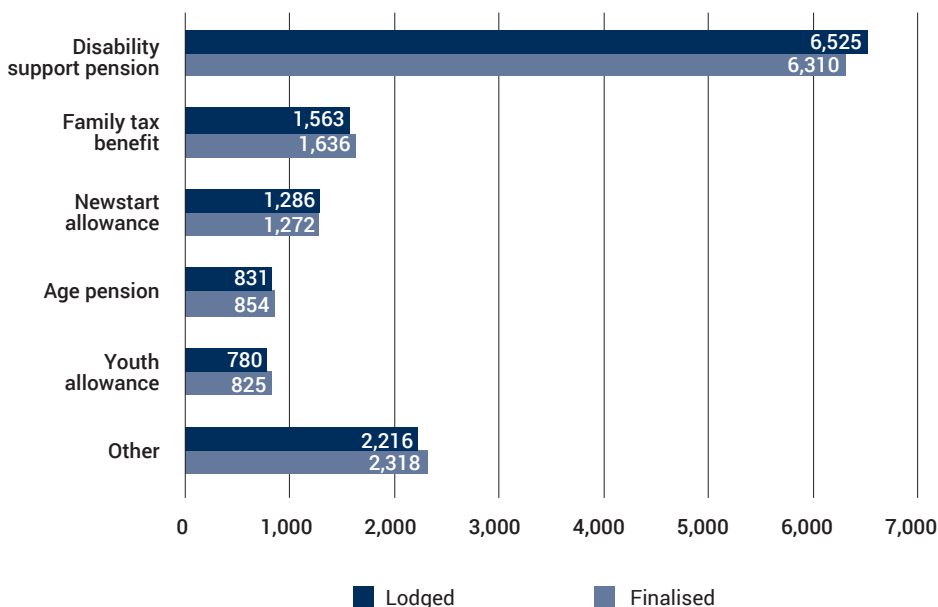
The Division received 15,543 applications in 2015–16, representing a two per cent increase on the number of applications lodged in the final year of the SSAT's operations. We achieved 15,534 finalisations, 13 per cent more than in 2014–15. Key statistics in relation to caseload and timeliness for the major areas of work within the Division are set out in Table 3.8.

**Table 3.8 Caseload overview, 2015–16 – Social Services and Child Support Division**

| AREA OF WORK                   | LODGED        | FINALISED     | ON HAND AT YEAR END | % FINALISED WITHIN 12 MONTHS | MEDIAN TIME TO FINALISE (WEEKS) |
|--------------------------------|---------------|---------------|---------------------|------------------------------|---------------------------------|
| <i>Centrelink (1st review)</i> | 13,201        | 13,215        | 2,694               | >99%                         | 11                              |
| <i>Child support</i>           | 2,136         | 2,098         | 533                 | >99%                         | 12                              |
| <i>Paid parental leave</i>     | 206           | 221           | 34                  | 100%                         | 10                              |
| <b>TOTAL</b>                   | <b>15,543</b> | <b>15,534</b> | <b>3,261</b>        | <b>&gt;99%</b>               | <b>11</b>                       |

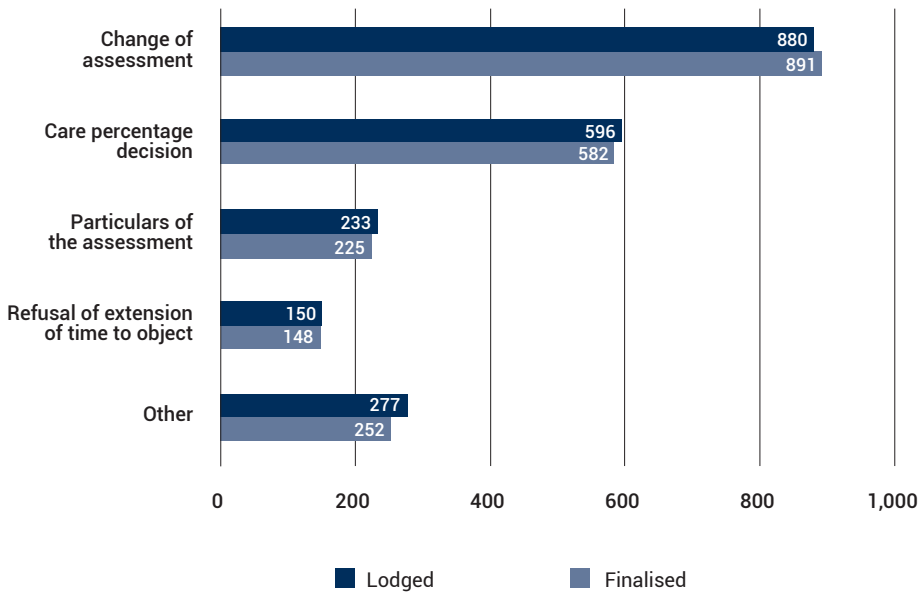
Applications relating to Centrelink decisions constituted 85 per cent of all lodgements in the Division in the reporting year and were slightly higher than in 2014–15. As shown in Chart 3.9, almost half of all applications concerned decisions about disability support pension with a further increase of six per cent in lodgements about decisions of this kind from 2014–15. There was also further growth of 16 per cent in the number of applications about family tax benefit and a similar decline in applications about newstart allowance.

**Chart 3.9 Centrelink lodgements and finalisations by key payment types, 2015–16**



Lodgements relating to child support decisions were 14 per cent of all applications received in 2015–16 and grew by 14 per cent from the previous year. Chart 3.10 illustrates the most common types of decisions under review. Applications relating to requests to change an assessment of how much child support is payable and determinations about a parent or non-parent carer’s percentage of care for a child together comprised almost 70 per cent of lodgements. While the number of change of assessment applications has declined somewhat since 2014–15, there have been moderate increases across a number of other decision types.

**Chart 3.10 Child support lodgements and finalisations by key decision types, 2015–16**



Applications relating to paid parental leave continued to form only a small part of the overall caseload in 2015–16. Lodgements remained consistent with the number of applications lodged in the SSAT in 2014–15.

The Division lists cases for hearing nationally and adopts a collaborative approach to allocating hearings across all registries. The number of Centrelink applications finalised increased by 13 per cent in 2015–16 and child support finalisations were 11 per cent higher than in the previous reporting period. Median finalisation times for Centrelink and child support applications were 11 and 12 weeks respectively, marginally higher than in 2014–15. Given the volume of applications received in the period, staffing issues in some registries and periodic uncertainty as to member appointments with a consequent inability to list cases before some members for periods of time, this was a significant achievement.

Certain decisions made by the Division can be reviewed by the AAT’s General Division and others by the courts on appeal. Of the 2,463 applications for second review of our Centrelink decisions that were made to the Tribunal in 2015–16, 100 were lodged by the Secretaries of the departments that administer social security and family assistance entitlements. Of the 114 Secretary appeals that were finalised in the period, our decision remained unchanged in more than half of the applications: 48 were withdrawn, the decision was affirmed following a hearing in nine applications and one was dismissed for non-appearance. Our decision was set aside or varied after hearing in 46 applications, set aside by consent in nine applications and the parties agreed to settle one application relating to a debt. Information relating to the outcomes of all applications for second review can be found in Appendix 4.

In the reporting period, there were 33 statutory appeals from our child support decisions filed in the Federal Circuit Court and the Federal Court, compared with a total of 32 appeals in the preceding year. In relation to the outcomes of appeals finalised in 2015–16, 23 were dismissed, seven were discontinued and three were allowed. The rate of successful appeals was three percentage points lower for this reporting period than in 2014–15.

The SSAT launched online lodgement for applicants in January 2014 but telephone lodgements remained the most common method of commencing a review in 2015–16. Lodging online rose slightly to 12 per cent of all lodgements this year. We are undertaking a range of measures to seek to increase the incidence of online lodgements by the end of 2016–17.

From 1 July 2015, the Department of Human Services became subject to the requirements of section 37 of the Administrative Appeals Tribunal Act in respect of first reviews of its decisions. This is the same duty to lodge material documents with the AAT that applied in relation to applications to the AAT for review of decisions of the former SSAT. The duty is to lodge with the AAT within 28 days of being notified of an application (or within such further time as the AAT allows) a statement of reasons for the decision under review and “every other document” in the decision-maker’s possession or control that is relevant to the review. A copy of those documents must be given to the applicant and any other party within the same period “unless the Tribunal directs otherwise” which recognises that certain documents may need to be treated as confidential. Transitioning to the new statutory scheme for first reviews so that it operates in the same manner as it continues to operate in relation to second reviews has presented challenges. Concerns regarding the sufficiency of, and unauthorised redactions to, documents lodged with the Division have arisen. Not infrequently, the AAT has had to require the Department to provide missing relevant documents or information. This, together with what should be unnecessary checking of the adequacy of the documents lodged with the AAT, impacts on our capacity to provide timely first reviews. We have engaged with the Department seeking to reach a constructive outcome regarding the adequacy of the documents required to be supplied. We were invited by the Department to participate in information sessions at national Authorised Review Officer conferences in August and September 2015. The President also met with the Acting Secretary to discuss the issue. Since then, we have participated in a workshop with the Department in April 2016, with another planned for August 2016. Such liaison arrangements are expected to be ongoing.

During the reporting period, we increased the frequency with which we give reasons for a decision orally at the end of a hearing as an effective and responsive way to provide applicants with a timely decision. Most commonly, we provide oral reasons for decision in Centrelink cases, with written reasons provided upon request by a party.

From 1 July 2015, some minor procedural changes came into effect, including audio recordings of hearings and taking evidence on oath or affirmation as a matter of course. These changes serve a number of purposes, such as allowing for a transcript of reasons to be able to be compiled if reasons for decision are given orally and written reasons are required at a later stage, as well as facilitating a reduction in procedural differences across the whole of the AAT. Despite these minor changes, we continue to operate in a manner that is as informal and accessible as possible, having regard to the nature of the issues to be determined.

The Division continued to facilitate legal advice clinics in our Brisbane, Melbourne and Sydney registries during 2015–16, enabling applicants to seek independent advice about their cases. In March, Basic Rights Queensland, a community legal centre, commenced a similar additional service in Brisbane.

## External scrutiny

The AAT’s operations are subject to external scrutiny through various mechanisms, including the review of our decisions by the courts, applications made under the *Freedom of Information Act 1982*, complaints to the Commonwealth Ombudsman and other bodies, inquiries undertaken by Parliamentary Committees and audits by the Australian National Audit Office and other bodies.



# Appeals and judicial review

There are three primary appeal pathways for review by the courts of decisions made by the AAT.

- A party may appeal to the Federal Court, on a question of law, from most types of final decisions made in divisions other than the Migration and Refugee Division under section 44 of the Administrative Appeals Tribunal Act. The Federal Court may transfer the appeal to the Federal Circuit Court unless the Tribunal was constituted by, or included, the President or a Deputy President.
- A party to a first review of a child support decision dealt with by the Social Services and Child Support Division may appeal, on a question of law, to the Federal Circuit Court under section 44AAA of the Administrative Appeals Tribunal Act unless the Tribunal was constituted by, or included, the President or a Deputy President.
- An applicant or the Minister for Immigration and Border Protection may seek judicial review of most decisions made under the Migration Act under Part 8 of that Act. Applications relating to decisions made in the Migration and Refugee Division must be made to the Federal Circuit Court. Applications relating to most migration decisions dealt with in the General Division must be made to the Federal Court.

A party may also seek judicial review of certain decisions made in the course of the review process and in respect of certain final decisions under the *Administrative Decisions (Judicial Review) Act 1977*, section 39B of the *Judiciary Act 1903*, Part 8 of the Migration Act or section 75(v) of the Constitution.

As shown in Table 3.11, 3,381 appeals were lodged against decisions in 2015–16, 97 per cent of which were applications for judicial review of decisions made by the Migration and Refugee Division or the former MRT or RRT. The proportion of migration and refugee decisions that were appealed was considerably higher than for the AAT’s other divisions. There were 3,087 appeals against decisions of the AAT, MRT, RRT and SSAT finally determined in the courts during the reporting year. While the tribunal’s decision was set aside in 24 per cent of those appeals, this amounted to only 3.3 per cent of all decisions made in 2014–15 that could have been appealed to the courts.

**Table 3.11 Court appeals lodged and finalised, 2015–16 – By division<sup>a</sup>**

| DIVISION  | COURT APPEALS LODGED |  | COURT APPEALS FINALISED <sup>c</sup> |  |   |
|---|----------------------|--|--------------------------------------|--|---|
|   | Lodged               | Proportion of total AAT decisions <sup>b</sup> | Finalised                            | Proportion allowed against total appeals finalised | Proportion allowed against total decisions <sup>d</sup> |
| FOI, General, NDIS, Security, Taxation and Commercial and Veterans’ Appeals | 79                   | 4%   | 96                                   | 29%  | 1.3%  |
| Migration and Refugee   | 3,269                | 23%  | 2,958                                | 24%  | 3.7%  |
| Social Services and Child Support <sup>e</sup>                              | 33                   | 2%   | 33                                   | 9%   | 0.2%  |
| <b>TOTAL</b>  | <b>3,381</b>         | <b>19%</b>                                     | <b>3,087</b>                         | <b>24%</b>   | <b>3.3%</b>   |

<sup>a</sup> These figures include appeals lodged or finalised in the reporting year that relate to decisions made by the AAT, MRT, RRT or SSAT prior to 1 July 2015 as well as decisions made by the AAT from 1 July 2015.

<sup>b</sup> This figure represents the number of appeals lodged in 2015–16 as a proportion of all AAT decisions that could have been appealed to the courts in 2015–16.

<sup>c</sup> Where a decision of a judge of the Federal Circuit Court, a single judge of the Federal Court or the Full Court of the Federal Court has been appealed, only the ultimate result is counted for the purpose of these statistics.

<sup>d</sup> This figure represents the number of successful appeals in 2015–16 as a proportion of all decisions of the AAT, MRT, RRT and SSAT that could have been appealed to the courts in the previous financial year.

<sup>e</sup> Only child support and employer-related paid parental leave decisions may be appealed to the courts under section 44 or 44AAA of the Administrative Appeals Tribunal Act. Other decisions are subject to second review in the AAT.

More information on appeals lodged and determined during the reporting year by major areas of work within divisions is available in Table A4.4 in Appendix 4.

During the reporting year, a number of judicial decisions had an impact on the AAT's procedures and decision-making.

### ***Ahmad v Minister for Immigration and Border Protection* [2015] FCAFC 182**

The appellant applied for a Subclass 457 temporary work visa based on a nomination application by an Australian business. The visa application was refused by a delegate of the Minister. Immediately before the appellant applied to the MRT for review of the decision, the business sponsor had lodged an application for a review of a decision to refuse to approve the nomination. Applying the decision of the Federal Circuit Court in *Minister for Immigration and Border Protection v Lee* [2014] FCCA 2881, the MRT decided it had no jurisdiction to review the visa refusal as there was no approved nomination at the time the review application was lodged. The Federal Circuit Court dismissed an application for judicial review of the MRT's decision. A Full Court of the Federal Court allowed an appeal against the Federal Circuit Court's decision declaring that the Tribunal had jurisdiction to review the decision. It held that it is sufficient for the purposes of section 338(2)(d) of the Migration Act that there is a pending application for a review in respect of an adverse nomination decision.

### ***MZAIC v Minister for Immigration and Border Protection* [2016] FCAFC 25**

The appellant lodged an application with the RRT using a version of the application form that was no longer approved for the purposes of section 412(1)(a) of the Migration Act. The RRT decided it did not have jurisdiction to review the decision. The Federal Circuit Court dismissed an application for judicial review of the RRT's decision. A Full Court of the Federal Court allowed an appeal against the Federal Circuit Court's decision holding that strict compliance with an approved application form is not required and substantial compliance will be sufficient in accordance with section 25C of the *Acts Interpretation Act 1901*. In this case, the Court found there was substantial compliance.

### ***Pioneer Glass Pty Ltd v Minister for Immigration and Border Protection* [2016] FCCA 1**

The applicant lodged an application for a review of a decision with the AAT on the last day on which it could be made, indicating on the form that the prescribed fee would be paid by credit card. The signature of the cardholder was not included on the application form and the payment was not processed by the Tribunal that day, as AAT policy required signatures in relation to paper-based credit card transactions. The AAT decided it did not have jurisdiction to review the decision as the fee was not paid within the time limit. The Federal Circuit Court allowed the application for judicial review holding that the application should have been accepted as valid because the signature was not essential for the purpose of processing the payment.

### ***Waensila v Minister for Immigration and Border Protection* [2016] FCAFC 32**

The appellant did not hold a substantive visa at the time of applying for a partner visa. Therefore, he was required to satisfy certain criteria in Schedule 3 to the *Migration Regulations 1994* unless the Minister was satisfied that there were compelling reasons for not applying those criteria. The visa was refused and the appellant applied to the MRT. He claimed there were a number of compelling reasons for not applying the Schedule 3 criteria, several of which were circumstances not present at the time of his visa application. Applying the decision of the Federal Court in *Boakye-Danquah v Minister for Immigration and Multicultural and Indigenous Affairs* [2002] FCA 438, the MRT held that it could only consider circumstances existing at the time of the application and concluded there were no compelling reasons. The Federal Circuit Court dismissed an application for judicial review from the AAT's decision. A Full Court of the Federal Court allowed an appeal against the Federal Circuit Court's decision holding that a decision-maker is not confined to considering only circumstances which existed at the time of the visa application.

## Freedom of information

Three applications were made to the Office of the Australian Information Commissioner in 2015–16 for external review of decisions made by the AAT in relation to requests made under the *Freedom of Information Act 1982*. Three reviews were finalised that related to decisions of the AAT, one review relating to a decision of the former MRT and RRT and one review relating to the former SSAT. No decisions were made that have had, or may have, a significant effect on the AAT's operations.

### Information publication scheme

Agencies subject to the *Freedom of Information Act 1982* are required to publish information to the public as part of the Information Publication Scheme. This requirement is in Part II of the *Freedom of Information Act 1982* and has replaced the former requirement to publish a section 8 statement in an annual report. Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements. The AAT's plan is on our website.

## Complaints to external bodies

Three complaints were made to the Australian Human Rights Commission about the AAT in 2015–16 with one finalised. The complaint was withdrawn.

The Commonwealth Ombudsman received 116 approaches concerning the AAT during the reporting period, a further seven approaches concerning the former MRT and RRT and five concerning the former SSAT. The Ombudsman conducted one investigation and concluded no further investigation was warranted in all of the circumstances.

The Office of the Australian Information Commissioner received six privacy complaints relating to the AAT. Three complaints relating to the AAT were finalised in 2015–16, one relating to the former MRT and RRT and one relating to the former SSAT. No findings were made against the AAT in the reporting period.

## Reports on the operations of the AAT

The AAT's operations were not the subject of any report by the Auditor-General, any Parliamentary Committee or by the Commonwealth Ombudsman during the reporting period.

## Service to users

The AAT strives to provide a mechanism of review that is accessible for our wide range of users, including people from different cultural and linguistic backgrounds and people with disability. We employ various measures to assist potential applicants, parties and others to apply to the Tribunal and participate in the review process.

## Information about the AAT and assistance in relation to the review process

We offer written information about our role and procedures in plain language in a variety of formats. Some information is made available in community languages and in videos. We also make resources available to help people understand how we will apply the law, including our decisions which are published on the Australasian Legal Information Institute website ([www.austlii.edu.au](http://www.austlii.edu.au)) and the Guide to Refugee Law in Australia which is available on our website.

AAT staff respond to enquiries from parties and representatives about the review process and proactively contact self-represented parties in some types of cases to explain our processes and identify whether a party will require an interpreter or assistance because of a disability. We make information available to parties about legal aid services, community legal centres, or other persons or organisations that may be able to provide advice and assistance in relation to the review process or how to find such assistance.

In New South Wales, Queensland, South Australia, Victoria and Western Australia, the AAT has worked with legal aid commissions and community legal centres to establish legal advice schemes. A solicitor attends the AAT and provides advice and minor assistance to self-represented parties in certain types of cases, particularly reviews of Centrelink decisions. Further assistance, such as representation, may be provided if a person meets eligibility requirements.

## People from culturally and linguistically diverse backgrounds

We take steps to ensure our users from culturally and linguistically diverse backgrounds are able to communicate with us effectively and also seek to address other cultural diversity issues in delivering our services.

### Interpreting services

If a party or witness requires an interpreter, the AAT engages one and meets the cost. We generally use interpreters accredited by the National Accreditation Authority for Translators and Interpreters (NAATI) at the 'Professional Interpreter' level. If an interpreter is not available in a language at that level, we may use an interpreter accredited as a 'Paraprofessional Interpreter' or, if NAATI does not offer accreditation testing in the language, an interpreter recognised by NAATI.

We have developed information for interpreters in relation to our procedures and terminology as well as guidelines relating to the role of the interpreter.

### Indigenous Australians

The AAT is committed to improving access for Indigenous Australians, including by educating members and staff on how to work effectively and respectfully with Indigenous users and their communities. During 2015–16, the AAT purchased an eLearning module for members and staff designed to improve Indigenous cultural awareness. Members and staff also had access to our internal guide on working with Aboriginal and Torres Strait Islander People.

During the reporting year, the AAT established closer links with the Judicial Council on Diversity, an advisory body formed to assist courts and tribunals respond to the needs of culturally diverse communities. Deputy President Stephanie Forgie was appointed the AAT's liaison leader.

## Persons with a disability

We aim to make access easier for people with disability by:

- ensuring the website meets the World Wide Web Consortium's Web Content Accessibility Guidelines version 2.0 (WCAG 2.0) web standard to Level AA
- making ReadSpeaker, a text to speech software service, available on the website
- providing portable hearing loop systems in AAT premises
- facilitating telephone contact for people with a hearing or speech impairment
- making all AAT premises wheelchair accessible and ensuring other premises used by the AAT are accessible, and
- providing facilities for participation in conferences and hearings by telephone or video-link.

## User feedback survey

The AAT engaged ORIMA Research to carry out a user feedback survey during May 2016. The objectives of the survey were to obtain feedback from users of the Tribunal's services to assess the extent to which we are meeting our statutory objective and to identify areas for potential improvement in our services. As the first user feedback survey conducted by the amalgamated AAT, the results also provide a valuable baseline for measuring changes in users' views of the AAT's services over time.

Two groups of users were invited to complete a survey about their experiences at the AAT: a sample of individuals and organisations who applied for a review or were otherwise a party to an application finalised by the AAT between 1 July 2015 and 29 February 2016 and a sample of representatives of parties who were involved in one or more applications finalised in the same period. Invitations were sent by email and the survey was conducted online.

In total, 784 parties and 477 representatives who were involved in applications across the AAT's divisions responded to the survey. Overall, both parties and representatives rated the Tribunal's services favourably with representatives tending to provide more strongly positive ratings. The responses of parties varied, sometimes significantly, depending on whether or not they received a favourable outcome in the review. Approximately half of all parties who responded to the survey indicated that the outcome was not at all in their favour.

In relation to specific elements of the review process, 72 per cent of parties and 85 per cent of representatives provided favourable assessments of the process of applying for a review. Two-thirds of parties and 83 per cent of representatives were satisfied overall with our information products, including the website, with our letters receiving the highest positive ratings from both parties and representatives. In relation to their dealings with staff, three-quarters of parties and 88 per cent of representatives gave favourable responses, while our conference and hearing processes were also rated positively overall by parties (72 per cent and 80 per cent respectively) and representatives (88 per cent and 84 per cent respectively). A majority of parties agreed that the level of formality of conferences and hearings was appropriate.

In relation to perceptions of the process overall, 61 per cent of parties and 81 per cent of representatives agreed the review process was conducted to a high standard, while 60 per cent of parties and 77 per cent of representatives considered the review process was straightforward. Eighty-two per cent of representatives agreed the review process is fair and the Tribunal is independent from the decision-maker. The results for parties in relation to these matters were lower (53 per cent and 64 per cent respectively) with responses correlating strongly, however, to the outcome of the review. In relation to timeliness, 65 per cent of parties and 62 per cent of representatives agreed the review process was completed within a reasonable time with results varying somewhat between divisions.

The Tribunal is examining the findings from the survey as well as the comments and suggestions made by participants to identify areas in which changes could be made to improve our services.

## Service charter

The AAT has a Service Charter which sets out the standards of service that people can expect when they deal with us. Information on the extent of the AAT's compliance with those standards during 2015–16 (where information is available) is in Table 3.12.

The Service Charter also includes information about how users can give us feedback, including how to make a complaint about the AAT. It also sets out our standards for responding to complaints. More information relating to the handling of complaints to the AAT during the reporting period is set out on the next page.

**Table 3.12 Performance against Service Charter standards, 2015–16**

| COMMITMENT  | RESULT FOR 2015–16   |
|---|--|
| <b>We will treat you with respect and courtesy</b>  |  |
| We will be polite, respectful and courteous and use language that is clear and understandable.  | <p>In the 2016 user feedback survey, more than 75 per cent of parties and 85 per cent of representatives agreed that staff, conference registrars and members were courteous and respectful. More than 70 per cent of parties and 83 per cent of representatives agreed that staff, conference registrars and members explained things clearly.</p> <p>Of the 138 complaints finalised in 2015–16, three involved adverse findings in relation to issues of this kind.</p>   |
| <b>We will make ourselves accessible</b>  |  |
| Staff will answer telephone queries from 8:30am to 5:00pm on working days. You can contact us on 1800 228 333 from anywhere in Australia. | Staff were available to answer telephone queries from 8:30am to 5:00pm on each working day throughout the year. The AAT's national 1800 telephone number was available throughout the year.  |
| All correspondence will include our contact details.  | All AAT correspondence includes contact details for the Tribunal.  |
| Wheelchair access and portable hearing loop systems are available at each registry.   | All AAT premises were wheelchair-accessible. Portable induction loops were available at each of our registries.  |
| Hearings will be held in capital cities and in regional centres (where possible).   | The AAT held hearings in all capital cities and seven regional locations.  |
| We conduct many hearings by phone or video-conference.  | <p>The AAT conducted the following number of case events by telephone or video-link:</p> <ul style="list-style-type: none"> <li>• conferences – 6,520</li> <li>• other alternative dispute resolution processes – 14</li> <li>• directions hearings – 2,300: 556 in the Social Services and Child Support Division and 1,744 in other divisions (other than the Migration and Refugee Division which cannot hold directions hearings)</li> <li>• interlocutory hearings – 435</li> <li>• hearings – 9,406: 1,916 in the Migration and Refugee Division, 7,382 in the Social Services and Child Support Division and 108 in other divisions.</li> </ul> |
| If you need an interpreter we will provide one free of charge.  | The AAT arranged for an interpreter to participate in an alternative dispute resolution process or hearing where needed. Interpreters were provided free of charge.  |
| We have information about our procedures available from our offices and on our website.   | <p>The Tribunal website contains information about our procedures. AAT staff assist applicants to access this information, including providing the information in printed form. AAT staff also provide verbal information about Tribunal processes.</p> <p>In the 2016 user feedback survey, 67 per cent of parties and 83 per cent of representatives were satisfied with the Tribunal's information products.</p>  |
| <b>We will deal with you fairly</b>   |  |
| You or your representative will have a reasonable opportunity to present your case.   | <p>In the 2016 user feedback survey, 67 per cent of parties agreed that the conference registrar gave them the opportunity to explain their case at a conference. In relation to hearings, 77 per cent of parties and 84 per cent of representatives agreed that the member gave the parties a chance to present their case.</p>   |

| COMMITMENT   | RESULT FOR 2015–16  |
|--|---|
| <b>We will operate in an efficient manner</b>          |   |
| We will acknowledge receipt of applications.           | The average time for acknowledging receipt of applications during the reporting period was 2 days.  |
| We will respond to enquiries within a reasonable time. | In the 2016 user feedback survey, 74 per cent of parties and 87 per cent of representatives agreed that staff were timely in responding to questions and enquiries. |

## Complaints to the Tribunal

Complaints may be made to the AAT orally or in writing. We encourage members and staff to address issues or concerns raised by people with whom they are dealing at the time of the interaction where possible. In circumstances where issues cannot be readily resolved, a person will be advised they may make a written complaint, including by way of our online feedback form.

We acknowledge receipt of written complaints within five working days and aim to provide a final response within 20 working days. If more time is required because of the complexity of the complaint or the need to consult with other persons before providing a response, we advise the complainant of progress in handling the complaint.

The AAT treats all complaints seriously and conducts investigations in an impartial manner as quickly as possible having regard to the principles of procedural fairness. Possible responses to complaints include the provision of information or an explanation, an apology, a change to practice and procedure or consideration of additional training and development for AAT personnel.

During 2015–16, the AAT received 138 complaints. Table 3.13 shows the subject matter of the complaints received in the reporting period.

**Table 3.13 Issues raised in complaints to the AAT, 2015–16**

| ISSUE                             | NUMBER OF COMPLAINTS |
|-----------------------------------|----------------------|
| Tribunal decisions                | 51                   |
| Conduct of members                | 35                   |
| Delay/timeliness                  | 14                   |
| Procedural issues                 | 12                   |
| Conduct of staff                  | 10                   |
| Privacy                           | 6                    |
| Fee refund                        | 2                    |
| Publication of Tribunal decisions | 2                    |
| Conduct of conferences            | 1                    |
| Other                             | 5                    |
| <b>TOTAL</b>                      | <b>138</b>           |

The AAT provided a response to 134 complaints in 2015–16, responding to 110 of the 134 complaints within 20 working days. The average number of days from complaint to final response was seven working days.

The AAT formed the view that it could have handled matters more appropriately in relation to 19 complaints, which raised issues concerning administrative error, how Tribunal personnel communicated with users, procedure and timeliness. The Tribunal offered an apology in each case and raised the matters with the relevant areas and personnel.

