



NTCAT
Northern Territory
Civil and Administrative Tribunal

NORTHERN TERRITORY CIVIL AND ADMINISTRATIVE TRIBUNAL

ANNUAL REPORT 2018 - 2019



NTCAT
Northern Territory
Civil and Administrative Tribunal

The Honourable Natasha Fyles MLA
Attorney-General and Minister for Justice
GPO Box 3146
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Dear Attorney-General

NTCAT ANNUAL REPORT 2018-19

In accordance with section 151 of the *Northern Territory Civil and Administrative Tribunal Act 2014*, I have pleasure in submitting for your attention the Northern Territory Civil and Administrative Tribunal's annual report for the period 1 July 2018 to 30 June 2019.

Yours faithfully

Judge Richard Bruxner
President
Northern Territory Civil
and Administrative Tribunal

27 September 2019

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INTRODUCTORY

1. This is the annual report of the Northern Territory Civil and Administrative Tribunal ('NTCAT') for the 2018-2019 financial year. The preparation of an annual report is required by section 151 of the *Northern Territory Civil and Administrative Tribunal Act 2014* ('NTCAT Act'), which is in these terms:

151 Annual report

- (1) The President must prepare and give to the Minister a report on the administration and operation of the Tribunal during each financial year.
 - (2) The report must contain information about:
 - (a) the number, nature and outcome of matters that have come before the Tribunal; and
 - (b) the number and nature of matters that are outstanding; and
 - (c) any trends or special problems that may have emerged; and
 - (d) in relation to the matters that have come before the Tribunal – the level of compliance by decision makers with requirements to:
 - (i) notify persons of reviewable decisions and their rights to seek review; and
 - (ii) provide written reasons for reviewable decisions when requested to do so; and
 - (e) forecasts of the workload of the Tribunal in the next financial year; and
 - (f) any proposals for improving the administration and operation of the Tribunal.
 - (3) The report must not contain information in relation to the evidence given in closed hearings or other confidential matters.
 - (4) The report must be given to the Minister within 3 months after the end of the financial year or such other period as the Minister determines.
 - (5) The Minister must table a copy of the report in the Legislative Assembly within 7 sitting days after the Minister receives the report.
2. The matters listed in section 151(2)(a) – (f) are addressed below under separate headings, following some general observations.

GENERAL

3. This is NTCAT's fifth annual report.
4. With the exception* of the mental health review jurisdiction currently exercised by the Mental Health Review Tribunal ('MHRT') under the *Mental Health and Related Services Act 1998*,

NTCAT is now exercising all of the high volume jurisdictions that were originally planned for it at the time of its creation. (*Although the mental health review jurisdiction remains separate, NTCAT has managed the administrative and quasi-judicial responsibilities of the MHRT since early 2015. A Bill for the formal transfer of the mental health review jurisdiction to NTCAT is before the Legislative Assembly at the time of preparing this report.)

NTCAT'S JURISDICTIONS

5. As at 30 June 2019 jurisdiction had been conferred upon NTCAT under the following Acts (*denotes commencement in the current reporting period):

- *Administrators Pensions Act 1981*
- *Advance Personal Planning Act 2013*
- *Alcohol Harm Reduction Act 2017*
- *Anti-Discrimination Act 1992*
- *Births Deaths and Marriages Registration Act 1996*
- *Building Act 1993 (& Building (Resolution of Residential Building Work Disputes) Regulations 2012)*
- *Caravan Parks Act 2012*
- *Control of Roads Act 1953*
- *Cooperatives (National Uniform Legislation) Act 2015*
- *Cullen Bay Marina Act 1992*
- *Darwin Waterfront Corporation Act 2006*
- *Education Act 2015*
- *Energy Pipelines Act 1981*
- *Expungement of Historical Homosexual Offence Records Act 2018**
- *Fences Act 1972*
- *Fisheries Act 1988*
- *Gaming Control Act 1993*
- *Gaming Machine Act 1995*
- *Geothermal Energy Act 2009*
- *Guardianship of Adults Act 2016*
- *Health Practitioner Regulation (National Uniform Legislation) Act 2010*
- *Health Practitioners Act 2004*
- *Heritage Act 2011*
- *Information Act 2002*
- *Kava Management Act 1998*
- *Lands Acquisition Act 1978*
- *Legislative Assembly Members Superannuation Contributions Act 2004*
- *Licensing (Director-General) Act 2014*
- *Liquor Act 1978*
- *Local Government Act 2008*
- *Marine Act 1981*
- *Mineral Titles Act 2010*
- *National Disability Insurance Scheme (Authorisations) Act 2019**

- *Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction for Native Title Matters) Act 2014*
- *Pastoral Land Act 1992*
- *Petroleum Act 1984*
- *Planning Act 1999*
- *Poppy Regulation Act 2014*
- *Ports Management Act 2015*
- *Private Security Act 1995*
- *Prostitution Regulation Act 1992*
- *Racing and Betting Act 1983*
- *Residential Tenancies Act 1999*
- *Small Claims Act 2016*
- *Superannuation Act 1986*
- *Termination of Units Plans and Unit Titles Schemes Act 2014*
- *Tobacco Control Act 2002*
- *Totalisator Licensing and Regulation Act 2000*
- *Training and Skills Development Act 2016*
- *Unit Titles Act 1975*
- *Unit Titles Schemes Act 2009*
- *Victims of Crimes Assistance Act 2006*

6. In addition, the following legislation, under which NTCAT will acquire jurisdiction, was passed, but did not commence, during the reporting period:

- *Teacher Registration (Northern Territory) Legislation Amendment Act 2019* (which amends the *Teacher Registration (Northern Territory) Act 2004*)
- *Animal Protection Act 2018*

7. In the reporting period 2774¹ new NTCAT matters were commenced.

8. Based upon the addresses disclosed by applicants when commencing NTCAT proceedings, approximately 90% of the tribunal's caseload originates in the greater Darwin area, followed by approximately 7% from Alice Springs and the remainder from smaller population centres and remote locations.

9. As in the last reporting period, the largest of NTCAT's jurisdictions – viewed simply in terms of the number of matters - remains its small claims jurisdiction, with 1345 new matters commenced.

10. The trend noted in previous annual reports of a reduction in the number of residential tenancies matters has reversed in the current reporting period, with 722 matters commenced (following 674 in 2016-17 and 590 in 2017-18).

¹ See further paragraph [48] below.

11. During the reporting period NTCAT's adult guardianship jurisdiction was the busiest of the tribunal's high volume jurisdictions. A total of 209 new guardianship proceedings were commenced in 2018-19 (as compared to 188 in 2016-17 and 232 in 2017-18). In addition, the tribunal continued to exercise the 'rolling' jurisdiction under which existing guardianship orders are required regularly to be reassessed (in order to ensure that the guardianship arrangements remain necessary and effective). A total of 444 reassessments were commenced in the current reporting period (up from 408 in 2017-2018). Dealing with a guardianship matter, whether a new application or a reassessment, will almost always require a series of listings (usually an initial oral hearing or hearings followed by later consideration 'on the papers'). The tribunal had 1807 such guardianship listings for the reporting period.
12. Apart from the core jurisdictions of small claims, residential tenancies and guardianship, new NTCAT proceedings were commenced during the current reporting period under the following Acts: *Anti-Discrimination Act 1992*; *Building Act 1993*; *Caravan Parks Act 2012*; *Fences Act 1972*; *Health Practitioner Regulations (N.U.L) Act 2010*; *Information Act 2002*; *Liquor Act 1978*; *Planning Act 1999*; *Unit Titles Act 1975*; *Victims of Crime Assistance Act 2006*.
13. The President of NTCAT also holds an appointment as President of the MHRT. As noted above, NTCAT manages the administrative and quasi-judicial responsibilities of the MHRT under the *Mental Health and Related Services Act 1998*. The jurisdiction of the MHRT (which accounts for between 10 and 15 hearings per week, and up to one day of hearing time, spread across lists conducted on three days) appears likely to transfer to NTCAT in the 2019-20 reporting period.

STAFFING

Senior Staff

14. For the reporting period, NTCAT's senior staff comprised:

- Judge Richard Bruxner - President;
- Andrew Macrides - Senior Member;
- Mark O'Reilly - Alice Springs Member;
- Renata Blanch - Registrar;
- Eleanor Poulter - Tribunal Manager; and
- Christi Hamon - Listings Coordinator

Tribunal Coordinators

15. The senior staff were supported by an Executive Assistant (Sarah Tam-Perez) and eight Tribunal Coordinators - seven in Darwin (Dane Armstrong, Wendy Baldwin, Gina Morrison, Triston Mullins, Candice Sanchez, Victoria Tom and Stephanie Thompson) and one in Alice Springs (Therese Gibson).

16. It was noted in the 2016-17 and 2017-18 annual reports that there is a pressing need for an additional tribunal coordinator to support NTCAT's Alice Springs operations; in particular, so as to allow the Alice Springs Registry to remain open at all times during business hours. This remains the case. Unless and until that need is met, NTCAT's ability to fully service the needs of its Central Australian clientele will be hampered.

Members

17. The President, Senior Member, Alice Springs Member and Registrar (who is able to constitute the Tribunal for certain matters) have had the conduct of the majority of the caseload of NTCAT for the reporting period.
18. NTCAT also continues to rely upon the services of its sessional members, in particular those holding legal qualifications, for the conduct of compulsory conferences and for selected hearings.
19. The following were sessional members of NTCAT during the reporting period (*indicates that membership had ended by 30 June 2019):

Legally qualified members (s16(2)(a) of the NTCAT Act):

Mr David Alderman
Mr David Baldry
Ms Helena Blundell
Ms Nardine Collier
Ms Cassandra Ellis
Mr Andrew George
Mr Russell Goldflam
Mr Kenneth Grime
Ms Lesley Hastwell
Mr Ron Levy
Mr Alister Lindsay
Prof. Les McCrimmon
Mr Ben O'Loughlin
Mr Robert Perry
Mr George Roussos
Ms Jodi Truman
Ms Kathryn Ganley* (until 3 November 2018)
Mr Julian Johnson* (until 3 November 2018)
Ms Jodi Mather* (until 3 November 2018)

Other members (s16(2)(b) of the NTCAT Act):

Ms Kathleen Blair
Mr John Brears
Dr Anthony Brownjohn
Ms Kathryn Crawley
Ms Barbara Curr* (until 3 November 2018)

| | |
|---------------------|-------------------------|
| Dr John Death* | (until 27 June 2019) |
| Dr Kerry Eupene | |
| Ms Jill Huck | |
| Mr Paul Rysavy | |
| Dr Diane Szarkowicz | |
| Ms Suzi Kapetas* | (until 3 November 2018) |

Additional full time member desirable

20. It has been noted in previous annual reports that the deployment of sessional members is less cost effective for NTCAT than reliance upon the full time members.
21. The appointment of another full-time Darwin-based member remains highly desirable and NTCAT will continue to explore that possibility with the Department of the Attorney-General and Justice.

FACILITIES

Registries

22. During the reporting period, NTCAT has continued to maintain registries in Darwin (Casuarina) and Alice Springs. In addition, it has continued arrangements with the Local Court under which NTCAT documentation is able to be lodged at Local Court registries in remote centres.
23. NTCAT's Darwin premises for the reporting period included three hearing rooms. NTCAT also has a hearing room in Alice Springs. By arrangement with the Local Court, hearings of NTCAT matters in places other than Darwin and Alice Springs are able to be conducted from court houses in those places. If, on a particular day, there is a sufficient number of listings in Katherine or Tennant Creek, and if circumstances otherwise permit, the tribunal will endeavour to have a member travel to those towns to conduct hearings in person.
24. All of NTCAT's hearing rooms and its Darwin conference room are fully equipped for video conferencing and teleconferencing.
25. It was noted in the 2017-18 Annual Report that NTCAT's Alice Springs conference room was soon to be equipped with videoconferencing facilities.
26. Although the Alice Springs conference room has been substantially upgraded in the context of recent completed renovations, the upgrade did not extend to the installation of video-conferencing equipment.
27. This is unfortunate.
28. NTCAT routinely makes its Alice Springs hearing room available for use by other courts/tribunals (most notably the Federal Circuit Court) but its ability to continue doing so without an unacceptable impact upon its own operations will depend on whether the

conference room, which (in its upgraded form) can double as a second hearing room, is fully equipped for remote participation.

29. In addition, NTCAT's Darwin and Alice Springs conference rooms are used extensively for the conduct of compulsory conferences. The absence of videoconferencing facilities for the Alice Springs conference room means that the user experience for parties who are unable to attend compulsory conferences in person (and must therefore participate by phone) is diminished.

Casuarina premises

30. NTCAT's three hearing rooms at Casuarina are adequate for managing the existing workload of the tribunal but security for those rooms remains *ad hoc* and unsatisfactory (see below).
31. The tribunal's Casuarina facilities for the conduct of compulsory conferences, which are presently confined to a single conference room without a 'breakout' room, are less than optimal. Ideally, the tribunal would like to move towards multiple conference rooms, each with their own 'breakout' facility. That is unlikely to be achievable using the floor space presently available to the tribunal at Casuarina.

Security

32. The inadequacy of security arrangements for NTCAT's premises was noted in the 2016-17 and 2017-18 annual reports. The need to provide adequate security for participants in NTCAT processes (parties, witnesses, observers, tribunal members and staff) remains pressing and is the subject of ongoing attention; however, it is unlikely to be able to be satisfactorily met for so long as NTCAT operates from its existing premises.

PROCEDURES AND SYSTEMS

Caseflow management

33. NTCAT's firm focus remains upon making its forms and processes as simple and easy to follow as possible.
34. The following description of NTCAT's general approach to caseflow management, from paragraphs [38]-[40] of the 2016 – 17 annual report, remains apposite:

In the reporting period, NTCAT has maintained and refined the approach to case management of matters in its civil disputes jurisdictions that was introduced in 2015-16. Under that approach, matters are allocated to one of two streams according to their complexity. The most straightforward, or urgent, matters (for example tenancy terminations or simple debt recoveries) are placed in a stream designed to have them ready for hearing within a few weeks of commencement. The remainder are placed in a stream where the initial emphasis is upon alternative dispute resolution at a compulsory conference (again, usually held within a few weeks of commencement). In each stream, a series of standard orders are made. The standard orders, which can vary according to type of matter and the stage it has reached, identify the next steps expected of the parties. The standard orders

are designed to be self-explanatory, so that there should be little need for the parties to consult the NTCAT rules.

The approach has proven effective. In general, parties to NTCAT proceedings appear to understand, and comply with, the standard orders. Moreover, more than half of the matters that are referred to a compulsory conference are resolved by agreement between the parties (that is, without the need for a contested hearing).

For matters that are not in NTCAT's civil disputes jurisdictions, NTCAT continues to adopt a 'hands-on' approach to case management. Although the precise procedure can vary according to the jurisdiction being exercised, an initial directions hearing is usually convened within a few weeks of commencement of a matter. Consideration is given at the directions hearing to whether the matter should be prepared for hearing, or whether there should first be efforts towards alternative dispute resolution.

35. For matters in the tribunal's guardianship jurisdiction, the above approach is modified so as to take account of the different issues and the different needs of interested parties. The approach was described as follows in the 2017-18 annual report (at [37]-[38]):

Last financial year, the tribunal adopted a new approach to the management of matters in its guardianship jurisdiction. Both the adult who is the subject of the proceedings and all other people who are likely to have a genuine interest in the proceedings, are now notified of, and are encouraged to attend, an initial hearing at which the tribunal gives consideration to the further steps that may be necessary in order to determine whether guardianship orders should be made (or continued).

The tribunal's experience has been that the initial hearings are well attended and provide an invaluable opportunity for the presiding member to obtain an insight into the particular circumstances of the affected adult and to tailor the tribunal's approach to the further hearing of the matter accordingly - including, for example, in terms of reports or assistance that might be required from the Public Guardian.

Odyssey

36. NTCAT has continued to operate using the Odyssey Case Management System that went live on 1 December 2017.
37. The system has generally proven robust, flexible and easy to use. The tribunal has continued to commit significant time and resources to refine Odyssey to better support the work of the tribunal and enhance the user experience.
38. A very substantial component of NTCAT's case management – both before and at hearings – is now able to be conducted without reference to the 'hard copy' file.
39. NTCAT is currently working with the Odyssey Project Team, including Tyler Technologies Inc, to implement the second major phase of the project in which the emphasis is upon electronic filing and service of documentation.
40. The ultimate aim is for NTCAT to move towards entirely 'paperless' management of its files.

STAKEHOLDER ENGAGEMENT

41. The tribunal has maintained an active involvement in the activities of relevant national organisations. In particular, the tribunal continues to be represented on the executive committee of the Council of Australasian Tribunals ('COAT').
42. In August 2018 NTCAT – in conjunction with the Public Guardian and Public Trustee – hosted a biannual national meeting of the Australian Guardianship and Administration Council ('AGAC').
43. During the reporting period, the tribunal consulted extensively with the Public Guardian and the Public Trustee regarding arrangements for a transfer to the Public Trustee of all financial guardianship orders managed by the Public Guardian. Implementation of the transfers, which will involve the making of standard orders and the conduct of hearings in approximately 350 matters commenced in July 2019 and is ongoing.
44. NTCAT also presented information sessions for stakeholders in its civil disputes jurisdictions (debt recovery and residential tenancies).

RESOURCES

45. The tribunal has been able to operate within its financial resources during the reporting period.
46. If those resources are substantially maintained, and if the tribunal continues to be permitted flexibility and independence in the management of the resources, they should remain sufficient for the time being.

MATTERS IN SECTION 151(2) OF THE NTCAT ACT

47. The following paragraphs address the matters listed in section 151(2) of the NTCAT Act.

'THE NUMBER, NATURE AND OUTCOME OF MATTERS THAT HAVE COME BEFORE THE TRIBUNAL' - S 151(2)(a)

48. 2774 proceedings were commenced in NTCAT in 2018-19, a small increase to the figure for the last reporting period (2732).
49. The total includes 209 new applications in the tribunal's guardianship jurisdiction and 444 reassessments of guardianship orders that were commenced in that period.
50. The figures summarised in the tables below do not take into account the tribunal's caseload under the *Mental Health and Related Services Act 1998* (which comprised 1475 matters that were scheduled for determination, of which 710 ultimately proceeded to a hearing).

Table 50A
NTCAT Proceedings Commenced:
Jurisdictions other than Guardianship
2018-19

| Jurisdiction | Proceedings commenced |
|---|------------------------------|
| <i>Anti-Discrimination Act 1992</i> | 8 |
| <i>Building Act 1993</i> | 3 |
| <i>Caravan Parks Act 2012</i> | 3 |
| <i>Fences Act 1972</i> | 7 |
| <i>Health Practitioner Regulations (N.U.L) Act 2010</i> | 2 |
| <i>Information Act 2002</i> | 4 |
| <i>Liquor Act 1978</i> | 3 |
| <i>Planning Act 1999</i> | 7 |
| <i>Residential Tenancies Act 1999</i> | 722 |
| <i>Small Claims Act 2016</i> | 1345 |
| <i>Unit Titles Act 1975</i> | 9 |
| <i>Victims of Crime Assistance Act 2006</i> | 6 |
| TOTAL | 2121 |

Table 50B
NTCAT Proceedings Commenced:
Guardianship
2018-19

| | |
|--|------------|
| <i>Advanced Personal Planning Act 2013 (new applications)</i> | 1 |
| <i>Guardianship of Adults Act 2016 (new applications)</i> | 208 |
| <i>Guardianship of Adults Act 2016 (reassessments commenced)</i> | 444 |
| TOTAL | 653 |

Table 50C
Proceedings Concluded:
Jurisdictions other than Guardianship
2018-19

| Jurisdiction | Proceedings concluded |
|---|------------------------------|
| <i>Anti-Discrimination Act 1992</i> | 7 |
| <i>Building Act 1993</i> | 1 |
| <i>Caravan Parks Act 2012</i> | 3 |
| <i>Fences Act 1972</i> | 8 |
| <i>Health Practitioner Regulations (N.U.L) Act 2010</i> | 6 |
| <i>Mineral Titles Act 2010</i> | 1 |
| <i>Planning Act 1999</i> | 8 |
| <i>Residential Tenancies Act 1999</i> | 733 |
| <i>Small Claims Act 2016</i> | 1323 |
| <i>Unit Titles Act 1975</i> | 10 |
| <i>Unit Titles Schemes Act 2009</i> | 1 |
| <i>Victims of Crime Assistance Act 2006</i> | 7 |
| TOTAL | 2108 |

Table 50D
Guardianship Outcomes
2018-19

| Type of order (section of Guardianship of Adults Act 2016) | Number of orders made |
|---|------------------------------|
| New guardianship order (s11) | 173 |
| Continued guardianship order - reassessment (s11, s38) | 400 |
| Interim (urgent) guardianship order (s20) | 91 |
| Specified measures (s35) | 28 |
| Vary guardianship order (s39) | 59 |
| Revoke guardianship order (s39) | 23 |
| Register interstate order (s54) | 8 |

THE NUMBER & NATURE OF MATTERS THAT ARE OUTSTANDING' - S 151(2)(b)

51. Past annual reports have noted the uncertainty regarding the term 'outstanding' in section 151(2)(b) of the NTCAT Act.
52. If the term is understood as referring to the number of NTCAT matters that remained 'active' as at the expiry of the reporting period - in the sense that some further action by the tribunal is required before the matter can be regarded as concluded (for example by judgment, settlement or withdrawal) – then there were 366 (non-guardianship) matters in that category, as follows:

Table 52
Proceedings Active:
Jurisdictions other than Guardianship
30 June 2019

| Jurisdiction | Proceedings active |
|--|---------------------------|
| <i>Anti-Discrimination Act 1992</i> | 2 |
| <i>Building Act 1993</i> | 2 |
| <i>Health Practitioners Regulations (N.U.L) Act 2010</i> | 2 |
| <i>Information Act 2002</i> | 4 |
| <i>Liquor Act 1978</i> | 3 |
| <i>Private Security Act 1995</i> | 2 |
| <i>Residential Tenancies Act 1999</i> | 87 |
| <i>Small Claims Act 2016</i> | 260 |
| <i>Unit Title Act 1975</i> | 1 |
| <i>Victims of Crime Assistance Act 2006</i> | 3 |
| TOTAL | 366 |

53. The figure of 87 active residential tenancies matters includes a group of 70 that were commenced in 2016 and relate to public housing at Santa Teresa. A group of five test cases was referred to the Supreme Court in 2017 and has since been referred back to NTCAT after determination of a series of legal questions. A decision in the five test cases was published in February 2019 and is now the subject of a Supreme Court appeal.

Jurisdictional inconsistency

54. NTCAT's previous four Annual Reports contained observations under this heading regarding the desirability of avoiding unnecessary inconsistency across NTCAT's many and varied jurisdictions.
55. Those observations remain apposite and, during the reporting period have come into particular focus in connection with NTCAT's jurisdiction under the *Information Act 2002*, aspects of which are conferred in terms that are regrettably unclear.

Membership – depth

56. At no stage during the reporting period did NTCAT find itself without a suitable member to allocate to a matter.
57. It is noted, however, that NTCAT has continued to struggle to attract medical practitioner members to the tribunal by way of advertised expressions of interest, even when targeted towards particular professions, mostly recently physiotherapists. This has potential ramifications for NTCAT's jurisdiction in disciplinary matters under the *Health Practitioners Act 2004* where a combination of factors (such as work commitments and conflicts of interest due to social or professional acquaintance) makes member depth essential.
58. Although the issue just described is specific to NTCAT's health disciplinary context, it remains desirable (as noted in earlier annual reports) that there is the capacity for *ad hoc* member appointments in limited circumstances. This could be achieved by amendments to the NTCAT Act:
 - a. to include provision for short-term, matter-specific, appointments by the President; or
 - b. to provide that a person who is a relevantly qualified member of an interstate 'Super Tribunal' may sit as a member of NTCAT in circumstances where there is no relevantly qualified member of NTCAT available to do so.

Membership – economics

59. For the reasons outlined in paragraph [20] above, the appointment of an additional full time Darwin based member remains a priority.

The NTCAT website

60. NTCAT's new website went 'live' in November 2018. The updated content, including information sheets in relation to key procedural issues and guides to assist in completing NTCAT forms, has met with positive feedback from NTCAT's stakeholders.
61. The website will be undergoing further development in the near future to support the transition to e-filing.

Costs in civil disputes jurisdictions

62. In December 2018 there were important amendments to the NTCAT Act affecting the tribunal's power to make awards of costs.
63. Although the 'usual rule' as to costs in NTCAT proceedings (namely that each party bears their own costs) remains, it has been modified so as to permit a successful party to recover out of pocket expenses, such as filing fees and other similar expenses, when those expenses are necessarily and reasonably incurred in bringing or defending to an NTCAT proceeding.
64. The amendments have no bearing upon the recoverability of other types of costs incurred by a party, for example legal fees. Costs of that nature are only awarded in exceptional cases.

'IN RELATION TO THE MATTERS THAT HAVE COME BEFORE THE TRIBUNAL - THE LEVEL OF COMPLIANCE BY DECISION MAKERS WITH REQUIREMENTS TO... NOTIFY PERSONS OF REVIEWABLE DECISIONS AND THEIR RIGHTS TO SEEK REVIEW' - S 151(2)(d)(i))

65. In the matters that NTCAT dealt with in its review jurisdiction during the reporting period, no concerns arose regarding decision-makers' compliance with requirements either to notify reviewable decisions or review rights in respect of such decisions.

'IN RELATION TO THE MATTERS THAT HAVE COME BEFORE THE TRIBUNAL - THE LEVEL OF COMPLIANCE BY DECISION MAKERS WITH REQUIREMENTS TO... PROVIDE WRITTEN REASONS FOR REVIEWABLE DECISIONS WHEN REQUESTED TO DO SO' - S 151(2)(d)(ii)

66. In the matters that NTCAT dealt with in its review jurisdiction during the reporting period, no concerns arose regarding decision-makers' compliance with requirements to provide written reasons for decision.

'FORECASTS OF THE WORKLOAD OF THE TRIBUNAL IN THE NEXT FINANCIAL YEAR' - S 151(2)(e)

67. The tribunal's statistics for 2017-18 and 2018-19 show relative consistency across NTCAT's main jurisdictions and enable the following estimates to be made with some confidence:
 - a. Small Claims and other civil disputes: 1200-1400 matters;
 - b. Residential Tenancies: 600-700 matters ;
 - c. Guardianship: 650 matters (i.e. new applications and reassessments);
 - d. Mental Health: 1450 matters requiring administrative management (of which approximately 700 will require hearings);
 - e. Other matters: 100-200.

68. It should be emphasised that the above estimates, which simply reflect matter commencements, do not make allowance for the commitment of resources that may be necessary for a particular matter.

'ANY PROPOSALS FOR IMPROVING THE ADMINISTRATION AND OPERATION OF THE TRIBUNAL' - S 151(2)(f)

Members' Manual and Code of Practice

69. In February 2019 NTCAT published its first members' manual. The manual, which comprises the fourth edition of the Council of Australasian Tribunals ('COAT') Practice Manual for Tribunals with extensive annotations specific to NTCAT, will be regularly updated.

Alternative Dispute Resolution

70. Compulsory conferences (conducted under section 107 of the NTCAT Act) continue to be an important part of NTCAT's core business. In the reporting period, approximately 53% of matters referred to a compulsory conference were resolved without the requirement for a hearing. Although that is an encouraging statistic, significantly higher settlement rates are achieved by some interstate tribunals and NTCAT remains committed to improvement.
71. A priority for 2019-20 will be exploring options for advanced mediation training for members who regularly conduct compulsory conferences.

Default judgment

72. In December 2018 the NTCAT Act was amended so as to give the tribunal a limited power to enter default judgment against respondents who have been served with initiating applications but fail to respond. The power is exercisable only in cases where an applicant is seeking to recover 'a debt or other fixed sum of money owed' and where the applicant otherwise meets strict procedural requirements (see section 101A of the NTCAT Act). In the reporting period after the December 2018 amendments NTCAT entered default judgment in 82 matters.