



## Filings, disposals and pending cases

### NOTES:

The figures for pending cases exclude cases that have been re-opened after judgment.

Pending caseload figures within the Common Law and Equity Divisions (or within case management lists within those Divisions) will not always reconcile with associated filing and disposal figures. This is because cases commenced in one case management list or Division may subsequently be transferred to another list or Division for further case management and disposal.

The statistics for civil cases in the Common Law Division and for the Equity Division (other than the Adoptions List, Protective List and contested Probate List cases) have been extracted from the JusticeLink system.

The statistics for the Court of Appeal, Court of Criminal Appeal, Criminal List, Bails List, Adoptions List, Protective List and contested Probate List matters are not supplied through the JusticeLink system; they continue to be collated manually and are subject to audit and revision.

'n/a' – figures not available or not separately reported

'-' – item not applicable

'0' – zero count

	2016	2017	2018	2019	2020
<b>COURT OF APPEAL</b> <sup>1,2</sup>					
Filings (net new cases) <sup>3</sup>	397	354	355	366	346
Filings of appeals / applications for relief	261	241	228	235	214
Filings of applications for leave to appeal <sup>4</sup>	144	121	139	135	133
Disposals (final disposals) <sup>5</sup>	423	380	361	339	382
Disposals of appeals / applications for relief	277	257	249	213	233
Disposals of applications for leave to appeal	154	131	124	130	150
Pending cases at 31 December	210	184	178	205	169
Appeals / applications for relief	157	141	120	142	123
Applications for leave to appeal	53	43	58	63	46

<sup>1</sup> These statistics exclude notices of intention to appeal. A notice of intention to appeal does not commence a substantive appeal or application.

<sup>2</sup> These statistics cover Court of Appeal cases only. They are not comparable to 'civil appeal' case statistics reported within the Productivity Commission's *Report on Government Services*, which include all civil cases of an appellate nature, including appeals and reviews dealt with in the Common Law Division or Equity Division.

<sup>3</sup> When a notice of appeal is filed after a successful application for leave to appeal, the appeal and the leave application are counted as one case (not two). For this reason, the figures for filings of notices of appeal (and applications for relief) and filings of applications for leave, combined, exceed the number of *net* new cases.

<sup>4</sup> This item includes not only leave applications, but also applications where parties have elected to have a concurrent hearing of both the leave application and the appeal (if leave is granted).

<sup>5</sup> Where an appeal is preceded by a grant of leave, this is counted as one continuous case, with a final disposal being counted only when the substantive appeal is finalised. For this reason, the figures for disposals of notices of appeal (and applications for relief) and disposals of applications for leave, combined, exceed the number of final disposals.

	2016	2017	2018	2019	2020
<b>COURT OF CRIMINAL APPEAL</b> <sup>1</sup>					
Filings	363	380	407	352	455
Disposals	386	395	366	368	416
Pending cases at 31 December	145	130	171	155	194

<sup>1</sup> These statistics exclude appeals from decisions of the NSW State Parole Authority. There were 8, 2, 0, 2 and 1 applications lodged in the Court of Criminal Appeal for the years 2016 to 2020, respectively, for review of Parole Board decisions.

	2016	2017	2018	2019	2020
<b>COMMON LAW DIVISION – Criminal</b> <sup>1, 2</sup>					
<b>Criminal List</b>					
Filings (registrations) <sup>3</sup>	102	112	93	103	112
Disposals <sup>4</sup>	105	105	99	106	88
Pending cases at 31 December	112	119	113	110	134

#### **Bails List**<sup>5, 6</sup>

Filings (applicants)	3,996	3,953	4,545	2,648	2,037
Disposals (applicants)	3,991	3,984	4,353	3,433	2,001
Pending applicants at 31 December	742	707	893	122	159

<sup>1</sup> In all years, the figures exclude matters under Part 7 of the *Crimes (Appeal and Review) Act 2001*, applications for re-determination of a life sentence, and summary jurisdiction cases. Summary jurisdiction cases are included within the statistics for 'other summons cases' within the Common Law General List (where they are managed).

<sup>2</sup> The Court uses counting rules that align with national counting rules, except concerning referrals from and to the Mental Health Review Tribunal (MHRT). Whenever the Court determines that an accused person is unfit to plead, it refers that person to the MHRT – the Court records that event as a case disposal. If the MHRT subsequently determines that the person is fit to stand trial, the Court records that event as a new case commencement. If the MHRT determines that the accused person is unlikely to be fit to stand trial within the next 12 months it notifies the Court, which then obtains advice as to whether the Director of Public Prosecutions intends to take further proceedings against the accused. If the Director of Public Prosecutions advises that the proceedings are to be taken further, then the Court records a new case commencement.

<sup>3</sup> The figures include committals for trial/sentence, *ex officio* indictments, re-trials ordered by the Court of Criminal Appeal or High Court, matters referred from the Mental Health Review Tribunal, transfers from the District Court, and re-activated matters (for example, where a bench warrant is executed).

<sup>4</sup> Disposals are counted at sentence, acquittal or other final disposal. Previously disposals were counted at verdict, plea of guilty, or other final disposal. ('Other final disposal' includes referral to the Mental Health Tribunal, no bill, death of the accused, order for a bench warrant to issue, transfer to another court, and other final orders.)

<sup>5</sup> The figures for Bails List cases now count the number of applicants, not the number of applications. At a Bails List hearing, the Court may deal concurrently with multiple applications for any one applicant. From 2016 onwards, new reports have been used which extract data from the JusticeLink system – it is possible that these do not take into account some data entered retrospectively.

<sup>6</sup> The statistics for 2019 are not directly comparable to previous years. Practice Note SC CL11 commenced on 3 June 2019 and set out a new practice and procedure for preparing and filing applications for hearing in the Bails List. Applications are now accepted only when they are accompanied by all material on which the applicant seeks to rely, and when the applicant's legal representation (or self-representation) is confirmed. Consequently, since June 2019 the operational figures are lower as they no longer include incomplete applications that would ultimately be withdrawn or dismissed.

	2016	2017	2018	2019	2020
<b>COMMON LAW DIVISION – Civil</b>					
<b>Administrative Law List</b>					
Filings	127	121	152	115	97
Disposals	149	114	132	141	129
Pending cases at 31 December	70	79	100	78	46
<b>Defamation List</b>					
Filings	69	54	39	11	14
Disposals	52	56	61	53	24
Pending cases at 31 December	84	85	65	24	14
<b>Common Law General List (formerly the General Case Management List)</b>					
Filings	1,105	1,109	1,231	1,431	1,298
Contested claims	449	442	542	692	722
– <i>personal injury</i>	291	347	427	533	586
– <i>other claims</i>	158	95	155	159	136
Uncontested claims	185	194	214	237	113
Proceeds of Crime cases	93	108	123	146	124
Other summons cases	378	365	352	356	339
Disposals	1,134	1,057	1,102	1,169	1,208
Contested claims	495	509	475	552	603
– <i>personal injury</i>	291	317	323	392	439
– <i>other claims</i>	204	192	152	160	164
Uncontested claims	154	114	151	177	121
Proceeds of Crime cases	97	85	110	108	112
Other summons cases	388	349	366	332	372
Pending cases at 31 December	1,247	1,274	1,362	1,600	1,677
Contested claims	865	819	913	1,083	1,254
– <i>personal injury</i>	575	575	677	828	979
– <i>other claims</i>	290	244	236	255	275
Uncontested claims	69	99	105	112	40
Proceeds of Crime cases	173	200	215	255	267
Other summons cases	140	156	129	150	116
<b>Possession List</b>					
Filings <sup>1</sup>	1,312	1,218	1,235	1,501	616
Disposals	1,376	1,250	1,207	1,292	1,088
Contested	61	76	46	68	70
Uncontested	1,315	1,174	1,161	1,224	1,018
Pending cases at 31 December	838	820	847	1,046	574
Contested	60	39	67	83	78
Uncontested	778	781	780	963	496
<b>Professional Negligence List</b>					
Filings	150	180	214	214	263
Disposals	153	131	173	199	244
Pending cases at 31 December	301	364	420	445	465
<b>High Risk Offender List <sup>2</sup></b>					
Filings	-	-	48	54	47
Disposals	-	-	36	60	37
Pending cases at 31 December	-	-	29	22	32

	2016	2017	2018	2019	2020
<b>Miscellaneous applications</b> <sup>3</sup>					
Filings	453	481	633	500	445
Disposals	437	503	540	564	401
Pending cases at 31 December	52	33	127	49	92

**COMMON LAW DIVISION TOTALS - Civil**

<b>Filings</b>	<b>3,216</b>	<b>3,163</b>	<b>3,552</b>	<b>3,826</b>	<b>2,780</b>
<b>Disposals</b>	<b>3,301</b>	<b>3,111</b>	<b>3,251</b>	<b>3,478</b>	<b>3,131</b>
<b>Pending cases at 31 December</b>	<b>2,592</b>	<b>2,655</b>	<b>2,950</b>	<b>3,264</b>	<b>2,900</b>

<sup>1</sup> All Possession List cases are assumed to be uncontested at the time of filing. If a subsequent defence or cross-claim is filed the case is listed for case management and counted as a contested case.

<sup>2</sup> The High Risk Offender List commenced during 2018. Some cases, commenced earlier in the Common Law General List, were transferred to this List for case management and final disposal.

<sup>3</sup> These include applications under the *Mutual Recognition (New South Wales) Act 1992* or *Trans-Tasman Mutual Recognition (New South Wales) Act 1996*, applications for production orders, requests for service within NSW of documents related to civil proceedings being conducted outside NSW, and applications to enforce judgments given outside Australia.

	2016	2017	2018	2019	2020
<b>EQUITY DIVISION <sup>1</sup></b>					
<b>Admiralty List</b>					
Filings	0	1	0	3	2
Disposals	4	0	2	2	0
Pending cases at 31 December	0	2	0	1	4
<b>Adoptions List <sup>2</sup></b>					
Applications	198	222	242	224	185
Orders made	179	195	273	226	178
Pending cases at 31 December	67	94	63	60	67
<b>Commercial List</b>					
Filings	147	155	196	171	213
Disposals	224	182	184	180	189
Pending cases at 31 December	223	200	222	221	248
<b>Commercial Arbitration List</b>					
Filings	1	5	1	1	1
Disposals	2	2	6	1	1
Pending cases at 31 December	0	4	1	2	1
<b>Corporations List</b>					
Filings	1,097	952	860	1,211	651
Judges' list	137	185	172	205	232
Registrar's list	960	767	688	1,006	419
Disposals	1,071	958	883	1,188	759
Judges' list	138	191	184	251	231
Registrar's list	933	767	699	937	528
Pending cases at 31 December	357	358	338	372	260
Judges' list	96	128	154	148	171
Registrar's list	261	230	184	224	89
<b>Equity General List</b>					
Filings	1,915	1,856	1,815	1,636	1,711
Family provision cases	1,018	973	962	878	880
Other cases	897	883	853	758	831
Disposals	2,058	1,774	1,910	1,724	1,719
Family provision cases	1,068	928	1,044	914	886
Other cases	990	846	866	810	833
Pending cases at 31 December	1,409	1,494	1,417	1,315	1,337
Family provision cases	492	544	470	417	412
Other cases	917	950	947	898	925
<b>Probate (Contentious Matters) List</b>					
Filings	265	294	316	310	291
Disposals	244	246	300	308	374
Pending cases at 31 December	194	241	257	257	174
<b>Protective List <sup>3</sup></b>					
Applications	83	110	102	123	87
Disposals	93	90	101	116	96
Pending applications at 31 December	25	45	46	51	42

	2016	2017	2018	2019	2020
<b>Real Property List</b>					
Filings	394	406	409	382	404
Disposals	248	357	388	366	356
Pending cases at 31 December	292	310	310	333	369
<b>Revenue List</b>					
Filings	26	8	24	14	10
Disposals	18	18	27	22	16
Pending applications at 31 December	36	27	26	18	14
<b>Technology and Construction List</b>					
Filings	108	138	163	178	249
Disposals	139	125	130	145	134
Pending cases at 31 December	174	195	229	266	388
<b>EQUITY DIVISION TOTALS</b>					
Filings	4,234	4,147	4,128	4,253	3,804
Disposals	4,280	3,947	4,204	4,278	3,822
Pending cases at 31 December	2,777	2,970	2,909	2,896	2,904

<b>PROBATE – Applications lodged for grant of probate etc <sup>4</sup></b>	<b>26,243</b>	<b>27,294</b>	<b>26,538</b>	<b>27,438</b>	<b>26,661</b>
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<sup>1</sup> The figures reported here have been extracted from the JusticeLink system, except for the figures for the Adoptions List, Probate (Contentious Matters) List and Protective List (the data for those lists are obtained from manually collated data).

<sup>2</sup> In this List all applications types are counted, including information applications.

<sup>3</sup> In this List, applications are counted instead of 'cases' because cases in this List can be of a perpetual nature. During the period when a person's affairs or property are managed under the *NSW Trustee and Guardian Act 2009*, it is possible that more than one application will be made in relation to that person. 'Disposals' refers to the number of disposed applications.

<sup>4</sup> This includes all probate applications that are lodged as uncontested applications for a grant of probate or letters of administration, or for reseal of a probate grant. Registrars deal with uncontested applications. Only a small proportion of these applications become contested. Contested applications are transferred to the Probate (Contentious Matters) List and are counted additionally as filings there. The figures here do not include other probate-related matters handled by the registry, such as probate accounts matters, caveats, deposited wills, and elections to administer estates.

## Timeliness – age of pending cases at 31 December <sup>1, 2</sup>

Number pending (and % of total)	National standard <sup>3</sup>	2016	2017	2018	2019	2020
<b>COURT OF APPEAL</b>						
Total number of cases pending		210	184	178	205	169
Cases within 12 months of age	90%	192 (91%)	176 (96%)	167 (94%)	191 (93%)	156 (92%)
Cases within 24 months of age	100%	210 (100%)	183 (99%)	177 (99%)	201 (98%)	167 (99%)
<b>COURT OF CRIMINAL APPEAL</b>						
Total number of cases pending		145	130	171	155	194
Cases within 12 months of age	90%	144 (99%)	127 (98%)	167 (98%)	150 (97%)	188 (97%)
Cases within 24 months of age	100%	145 (100%)	130 (100%)	171 (100%)	155 (100%)	193 (99%)
<b>COMMON LAW DIVISION – Criminal <sup>4, 5</sup></b>						
Total number of defendants pending		112	119	113	110	134
Cases within 12 months of age	90%	80 (71%)	89 (75%)	61 (54%)	74 (67%)	82 (61%)
Cases within 24 months of age	100%	107 (96%)	109 (92%)	107 (95%)	97 (88%)	119 (89%)
<b>COMMON LAW DIVISION - Civil</b>						
Total number of cases pending		2,592	2,655	2,950	3,264	2,900
Cases within 12 months of age	90%	1,766 (68%)	1,783 (67%)	2,055 (70%)	2,218 (68%)	1,638 (56%)
Cases within 24 months of age	100%	2,204 (85%)	2,243 (84%)	2,549 (86%)	2,793 (86%)	2,374 (82%)
<b>EQUITY DIVISION (excluding uncontested probate matters)</b>						
Total number of cases pending		2,777	2,970	2,909	2,896	2,904
Cases within 12 months of age	90%	1,975 (71%)	2,055 (69%)	1,950 (67%)	1,871 (65%)	1,855 (64%)
Cases within 24 months of age	100%	2,471 (89%)	2,629 (89%)	2,531 (87%)	2,497 (86%)	2,439 (84%)

<sup>1</sup> For cases in the Court of Appeal and the Court of Criminal Appeal, the age of cases includes time taken to deal with any associated application for leave to appeal.

<sup>2</sup> These figures include the effect of factors outside the control of the Court, such as the time taken to complete relevant cases in other courts/tribunals or interlocutory appeals, time taken by external agencies/individuals to prepare essential reports, and time occupied by trials that result in a hung jury.

<sup>3</sup> The national standards are taken from the 'backlog' performance indicator within the Courts chapter of the *Report on Government Services* (published annually by the Productivity Commission). Note that the national standards apply to district/county courts as well as to supreme courts; consequently, the national standards apply to a large range of indictments, criminality and civil case types. The case-mix of any court can influence that court's

capacity to achieve the standards. For criminal cases, for example, while other supreme courts in Australia typically deal with a broad range of offences, this Court deals typically with cases involving homicide offences (other matters, generally involving the most serious criminality, may be brought only with the approval of the Chief Justice). For civil non-appeal cases, all supreme courts in Australia continue to have difficulty achieving the national standards (see the 'Backlog' tables in the latest *Report on Government Services*).

<sup>4</sup> The figures exclude matters under Part 7 of the *Crimes (Appeal and Review) Act 2001* and applications for re-determination of a life sentence.

<sup>5</sup> The figures are comparable from year to year. The counting unit is defendants. Cases are considered to be pending until the time of sentence, acquittal or other final disposal. Where a trial collapses and a new trial is ordered, the counting of the age of the case is calculated from the date of committal (not from the date of the order for a new trial).

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**Timeliness – listing delays after the end of the year** <sup>1, 2</sup>

	2016	2017	2018	2019	2020
<b>COURT OF APPEAL</b> <sup>3</sup>	1 month	2.2 months	1.7 months	1.8 months	2.0 months
<b>COURT OF CRIMINAL APPEAL</b> <sup>4</sup>	1.5 months	1.2 months	3.0 months	3.4 months	5.4 months
<b>COMMON LAW DIVISION</b>					
<b>Criminal List</b> <sup>5</sup>	7.3 months	5.5 months	6.5 months	5.0 months	4.2 months
<b>Civil lists</b> <sup>6</sup>	7.3 months	7.0 months	6.0 months	12.0 months	10.3 months
<b>Bails List</b> <sup>7</sup>	9 weeks	7 weeks	2 weeks	2 weeks	3.0 weeks
<b>EQUITY DIVISION</b> <sup>8</sup>	5.3 months	4.5 months	6.0 months	6.7 months	6.3 months

<sup>1</sup> This is the time between the establishment of readiness for hearing and the first group of available hearing dates that the Court offers for criminal and civil trial cases, criminal and civil appeals and Bails List cases. These delays do not apply if the Court orders an expedited hearing.

<sup>2</sup> The listing delays show the position at the start of the new law term (for example, for 2020 it is the position at the start of the 2021 law term). This removes the end-of-year impact of the law vacation.

<sup>3</sup> This refers to substantive appeals (including those heard concurrently with a leave application). The listing delay is usually shorter for a hearing of a leave application alone.

<sup>4</sup> This refers to appeals against conviction. The listing delay is usually shorter for interlocutory appeals and appeals against sentence only.

<sup>5</sup> This refers to cases requiring at least 4 weeks of trial time.

<sup>6</sup> This refers to cases requiring up to 5 days of hearing time.

<sup>7</sup> This is the time between lodgment of an application and the first group of available hearing dates. Prior to 2019, this referred to applications by adults receiving public funding. From June 2019, it refers to all applications by adults for a 30-minute hearing. Applications by juveniles are usually heard within 2 weeks.

<sup>8</sup> This refers only to General List and Probate (Contentious Matters) List cases requiring 2 or more days of hearing time before a judge.

## Alternative dispute resolution

	2016	2017	2018	2019	2020
<b>Court-annexed mediations listed</b> <sup>1, 2</sup>					
Total	615	571	428	474	331
Common Law Division	38	51	29	27	26
Equity Division – not probate cases	528	455	344	366	269
Equity Division – probate cases	48	64	55	80	36
Court of Appeal	1	1	0	1	0
<b>Percentage settling at mediation</b> <sup>3, 4</sup>					
	51%	46%	47%	42%	42%
<b>Waiting time after the end of the year</b> <sup>5</sup>					
	5 weeks	2 weeks	5 weeks	6 weeks	4 weeks
<b>Referrals to mediation generally</b>					
Total referrals recorded <sup>6</sup>	806	943	1,169	1,407	1,055
Mediation referral index <sup>7</sup>	17.3%	20.8%	24.7%	30.3%	22.2%
<b>Arbitrations listed</b> <sup>8</sup>					
Total	0	0	0	0	0

<sup>1</sup> 'Court-annexed mediation' refers to mediations conducted by those registrars of the Court who are also qualified as mediators. It excludes settlement conferences conducted by judges and mediations conducted by private mediators.

<sup>2</sup> This section refers to court-annexed mediation listings for the year – note that *referrals* to court-annexed mediation that are made late in one year may result in *listings* early in the following year.

<sup>3</sup> This refers only to cases that have settled and either agreed upon finalising orders or drafted heads of agreement *by the close of the court-annexed mediation session*. It does not include cases that advise a settlement at any later time (even though the mediation may have contributed significantly to reaching that settlement). In 2020, for example, in addition to the 42% of cases that settled at the close of their court-annexed mediation session, a further 29% of cases were continuing settlement negotiations.

<sup>4</sup> This refers only to cases using court-annexed mediation. The registry does not collect settlement data for mediations conducted by private mediators.

<sup>5</sup> This is the waiting time to the first-available extensive group of mediation sessions within the court-annexed mediation program, as reported at the start of the new law term (for example, for 2020 it is the position at the start of the 2021 law term). Earlier sessions are often sporadically available. Urgent mediation sessions are provided without delay when ordered by the Court.

<sup>6</sup> This covers all cases in which, during the year, either a referral to mediation was made or directions were given that involved mediation, regardless of whether the mediation would be through the court-annexed mediation program or conducted by a private mediator.

<sup>7</sup> The 'mediation referral index' is the number of cases referred to mediation during the year, divided by the number of cases lodged (in that year) that are of a type for which mediation is considered applicable. For the purpose of calculating the mediation referral index, mediation is considered to be applicable for all civil cases types (including appeal cases), except for proceeds of crime cases, cases that have a high likelihood of proceeding to default judgment or have no defendant element, all cases in the Adoptions List, High Risk Offender List or Protective List, and 90% of cases in the Corporations List. While a case may be of a type for which mediation is considered to be applicable, there may be a particular aspect of that case individually that makes it inappropriate for mediation; however, the calculation of the mediation referral index does not exclude any individual cases on that basis.

<sup>8</sup> Referral for arbitration is possible for Supreme Court cases but no referrals have been recorded since 2006.