

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO**

Program: Administrative Appeals Tribunal

Question No. AE17/020

Senator Siewert asked the following question at the hearing on 28 February 2017:

Senator SIEWERT: I know that we are trying to make up some time, so I will try to be quick. I understand that you do not usually have legal representation in the process.

Ms Leathem: It really depends on the type of review that is being undertaken, but certainly many people represent themselves in proceedings.

Senator SIEWERT: Do you keep figures on that?

Mr Matthies: We do.

Ms Leathem: We do have some representation data. In the 2015-16 year, 59 per cent of applicants were self-represented. And if you look at the year to date—July to December 2016—that is slightly higher, at 60 per cent of applicants.

Senator SIEWERT: I may need to put some more questions on notice; I am aware of time. But in the provision of those figures, are you able to give me a breakdown state by state? When you are going back to the figures that I asked for, can you—on notice—give me a breakdown state by state?

Mr Matthies: We should be able to do that.

Senator SIEWERT: Could you also provide a state-by-state breakdown of where people are self-represented?

Ms Leathem: Effectively what we could do in the representation data is tell you the proportion of applicants who were self-represented.

Senator SIEWERT: Yes. That would be really appreciated. I am particularly interested in DSP, again, in terms of self-representation. I have been told that there is some concern about the increasing numbers of people with DSP who are applying and are needing help in order to navigate their way through the system. So, I am particularly interested in any information you can give me on the number of people on DSP who self-represent. Can you tell me how many of the applicants—and maybe take it on notice; I am sure you do not have all the information at your fingertips anyway—are on DSP, the proportion who are on DSP, particularly for the year to date and the last financial year, for which you have made a determination one way or the other for the applicant?

Ms Leathem: So, outcome.

Senator SIEWERT: Outcomes, yes, under the various determinations that you make, particularly DSP, but I would be interested in any other information you can give me on the other payment types. Thank you.

Mr Matthies: The figures that we just provided, the 59 and 60 per cent, are across all of the tribunal's jurisdictions, but you are particularly interested in the Centrelink jurisdiction—

Senator SIEWERT: Yes.

Mr Matthies: In terms of representation and the outcome data?

Senator SIEWERT: Yes. Apologies: I was not clear. Yes, I am particularly interested in the Centrelink jurisdiction, and, if possible, broken down for the payment types that you review. Thank you.

The answer to the honourable senator's question is as follows:

On 1 July 2015, the Administrative Appeals Tribunal (AAT) merged with the Migration Review Tribunal, the Refugee Review Tribunal and the Social Security Appeals Tribunal (SSAT). Applications for first review of decisions made under the family assistance, social security and student assistance laws by Centrelink (Centrelink decisions) are dealt with in the AAT's Social Services and Child Support Division. An affected individual or the Secretary of a department administering the laws pursuant to which Centrelink decisions are made can apply for a second review of the SSCSD's decision. Applications for second review are dealt with in the AAT's General Division.

The following two tables set out for all applications finalised by the AAT in 2015–16 and in the 2016–17 financial year to 28 February 2017:

- the number and proportion of individuals who were parties to a review of a Centrelink decisions who were self-represented; and
- the number and proportion of individuals who were parties to a review relating to a decision about disability support pension (DSP) who were self-represented.

A person has been counted as self-represented if the AAT's case management system does not record a representative for that person at the time the application was finalised, whether the representative is a lawyer, accountant, other type of advocate, friend or relative.

2015–16	Self-representation – First review				Self-representation – Second review			
	All Centrelink		DSP		All Centrelink		DSP	
	No.	%	No.	%	No.	%	No.	%
NSW	3,096	84%	1,451	81%	580	77%	313	79%
VIC	2,969	82%	1,285	79%	510	78%	268	76%
QLD	2,467	83%	1,081	79%	361	87%	195	88%
SA	1,074	72%	482	60%	150	68%	90	69%
WA	1,030	85%	399	79%	132	79%	76	77%
TAS	302	86%	122	85%	38	72%	16	73%
ACT	114	81%	44	80%	74	78%	31	82%
NT	32	80%	12	67%	4	40%	2	67%
TOTAL	11,084	82%	4,876	77%	1,849	78%	991	78%

2016–17	Self-representation – First review	Self-representation – Second review
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to 28 Feb 2017	All Centrelink		DSP		All Centrelink		DSP	
	No.	%	No.	%	No.	%	No.	%
NSW	2,038	85%	971	82%	353	78%	181	74%
VIC	1,969	82%	863	78%	304	74%	195	70%
QLD	1,680	83%	776	78%	264	82%	169	80%
SA	769	72%	321	59%	109	69%	62	68%
WA	709	87%	276	82%	117	80%	58	74%
TAS	224	90%	99	85%	37	90%	21	91%
ACT	87	81%	35	74%	57	77%	35	74%
NT	21	72%	6	50%	4	80%	0	0%
TOTAL	7,497	82%	3,347	77%	1,245	77%	721	74%

The following tables set out the outcomes of applications for review of Centrelink decisions finalised by the AAT in 2015–16 and in the 2016–17 financial year to 28 February 2017 for the following most common payment types and all other decision/payment types:

- disability support pension (DSP)
- family tax benefit (FTB)
- newstart allowance (NSA)
- age pension (AP), and
- youth allowance (YA).

In relation to second review, the AAT does not record whether the outcome of an application is or is not favourable to the individual concerned, only whether the decision of the SSCSD on first review has been affirmed, varied or set aside or the application has been otherwise finalised. The tables below provide information separately in relation to the outcomes of applications for second review lodged by individuals and applications lodged by departments.

2015–16	First review ^a						Second review – Applications lodged by individuals						Second review – Applications lodged by departments					
	DSP	FTB	NSA	AP	YA	Other	DSP	FTB	NSA	AP	YA	Other	DSP	FTB	NSA	AP	YA	Other
By decision^b																		
Decision affirmed	4,322	1,028	581	454	274	1,257	326	32	9	36	1	94	2	1	0	0	0	6
Decision varied or set aside	1,095	597	305	247	202	692	25	15	5	3	0	34	20	10	0	2	1	13
<i>Subtotal</i>	<i>5,417</i>	<i>1,625</i>	<i>886</i>	<i>701</i>	<i>476</i>	<i>1,949</i>	<i>351</i>	<i>47</i>	<i>14</i>	<i>39</i>	<i>1</i>	<i>128</i>	<i>22</i>	<i>11</i>	<i>0</i>	<i>2</i>	<i>1</i>	<i>19</i>
By consent																		
Decision affirmed ^c	0	0	0	0	0	0	4	0	1	1	0	1	0	0	0	0	0	0
Decision varied or set aside ^c	0	0	0	0	0	0	189	12	10	21	2	95	6	0	0	0	0	3
Dismissed by consent ^d	3	1	2	0	0	1	7	0	1	2	1	11	0	0	0	0	0	0
Dismissed by operation of law ^e	0	0	0	0	0	0	2	1	0	0	0	292	0	0	0	0	0	1
<i>Subtotal</i>	<i>3</i>	<i>1</i>	<i>2</i>	<i>0</i>	<i>0</i>	<i>1</i>	<i>202</i>	<i>13</i>	<i>12</i>	<i>24</i>	<i>3</i>	<i>399</i>	<i>6</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>4</i>
Other																		
Withdrawn by applicant	296	150	80	77	44	154	467	25	15	31	1	103	18	21	0	0	1	8
Dismissed by Tribunal ^f	81	78	76	3	18	61	68	9	10	11	3	35	0	1	0	0	0	0
No jurisdiction to review ^g	585	277	312	135	355	513	129	9	8	14	3	47	0	0	0	0	0	0
<i>Subtotal</i>	<i>962</i>	<i>505</i>	<i>468</i>	<i>215</i>	<i>417</i>	<i>728</i>	<i>664</i>	<i>43</i>	<i>33</i>	<i>56</i>	<i>7</i>	<i>185</i>	<i>18</i>	<i>22</i>	<i>0</i>	<i>0</i>	<i>1</i>	<i>8</i>
TOTAL	6,382	2,131	1,356	916	893	2,678	1,217	103	59	119	11	712	46	33	0	2	2	31

2016–17 to 28 Feb 2017	First review ^a						Second review – Applications lodged by individuals						Second review – Applications lodged by departments					
	DSP	FTB	NSA	AP	YA	Other	DSP	FTB	NSA	AP	YA	Other	DSP	FTB	NSA	AP	YA	Other
By decision^b																		
Decision affirmed	2,823	623	385	335	119	667	234	25	12	13	2	42	2	1	0	0	0	2
Decision varied or set aside	788	302	172	154	74	394	29	8	2	8	0	21	18	5	1	2	0	2
<i>Subtotal</i>	<i>3,611</i>	<i>925</i>	<i>557</i>	<i>489</i>	<i>193</i>	<i>1,061</i>	<i>263</i>	<i>33</i>	<i>14</i>	<i>21</i>	<i>2</i>	<i>63</i>	<i>20</i>	<i>6</i>	<i>1</i>	<i>2</i>	<i>0</i>	<i>4</i>
By consent																		
Decision affirmed ^c	0	0	0	0	0	0	3	0	2	4	0	1	0	0	0	0	0	0
Decision varied or set aside ^c	0	0	0	0	0	0	155	13	13	19	4	32	7	0	0	0	2	2
Dismissed by consent ^d	6	9	1	1	0	1	16	3	1	0	0	2	0	0	0	0	0	0
Dismissed by operation of law ^e	0	0	0	0	0	0	21	34	23	25	10	92	0	0	0	0	0	2
<i>Subtotal</i>	<i>6</i>	<i>9</i>	<i>1</i>	<i>1</i>	<i>0</i>	<i>1</i>	<i>195</i>	<i>50</i>	<i>39</i>	<i>48</i>	<i>14</i>	<i>127</i>	<i>7</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>2</i>	<i>4</i>
Other																		
Withdrawn by applicant	207	78	76	71	13	99	332	20	28	25	1	35	12	10	2	0	0	3
Dismissed by Tribunal ^f	98	65	61	1	29	73	69	3	6	0	0	8	0	0	0	0	0	0
No jurisdiction to review ^g	455	326	426	141	219	454	72	8	12	2	1	18	0	0	0	0	0	0
<i>Subtotal</i>	<i>760</i>	<i>469</i>	<i>563</i>	<i>213</i>	<i>261</i>	<i>626</i>	<i>473</i>	<i>31</i>	<i>46</i>	<i>27</i>	<i>2</i>	<i>61</i>	<i>12</i>	<i>10</i>	<i>2</i>	<i>0</i>	<i>0</i>	<i>3</i>
TOTAL	4,377	1,403	1,121	703	454	1,688	931	114	99	96	18	251	39	16	3	2	2	11

^a A single application may relate to more than one reviewable decision. These figures include outcomes for all decisions that have been reviewed.

^b Applications finalised by a decision of the AAT under section 43 of the *Administrative Appeals Tribunal Act 1975*

^c Applications finalised by a decision of the AAT made under section 34D or 42C in accordance with terms of agreement reached by the parties

^d Applications dismissed by the AAT by consent under section 42A(1)

^e If an application for a review of a Centrelink decision relates to the recovery of a debt, the parties may agree in writing to settle the proceedings. On receipt of the agreement, the application is taken to have been dismissed.

^f Applications dismissed by the AAT under section 42A(2) (non-appearance at a case event), section 42A(5) (failure to proceed with an application or to comply with a direction of the AAT) and section 42B(1) (application is frivolous, vexatious, misconceived, lacking in substance, has no reasonable prospect of success or is an abuse of the process of the AAT)

^g Applications finalised on the basis that the decision is not subject to review by the AAT, the applicant has not applied for a review by an Authorised Review Officer, the application has not been made within a prescribed time limit or the AAT has refused to extend the time for applying for a review