

Questions taken on notice

Entity:	Court Services Victoria
Witness:	Ms Louise Anderson
Committee member:	Mr Danny O'Brien; Mr Sam Hibbins
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Relevant text – page 3:

Mr D O'BRIEN: Thank you, Chair, and good afternoon, Ms Anderson. Welcome along for the first time. Obviously we want to talk a little about court backlogs and delays given the COVID situation. I do not know whether you have this data or whether you might want to take it on notice, but I am just after the pending case numbers for each jurisdiction as at 30 June this year for the Supreme Court, County Court, Magistrates Court, Children's Court and Coroners Court. There is probably a lot of data, so whether you—

Ms ANDERSON: Well, I think, Mr O'Brien—yes, I do have the data but perhaps it is more appropriate if I provide it on notice rather than go through the numbers.

Mr D O'BRIEN: Yes—if we can get that and also the clearance rates for the courts as at the same date, 30 June.

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Mr HIBBINS: Yes, okay. Thank you. Now just on page 11 of the questionnaire in regard to the lower than 100 per cent case clearance rates for the various jurisdictions, is it possible to get the numbers of cases for all of those rather than just the percentages?

Ms ANDERSON: The actual—

Mr HIBBINS: Yes, the actual numbers.

Ms ANDERSON: I will take that on notice, Mr Hibbins, and I will see.

Answers:

The numbers of pending matters as at 30 June 2021 are below:

Jurisdiction	Number of pending matters as at 30 June 2021
Civil matters	
Supreme Court (SCV)	4,910
County Court (CCV)	7,266
Magistrates' Court (MCV)	26,015
Children's Court (ChCV)	7,826
Coroners Court (CoCV)	5,189
Victorian Civil and Administrative Tribunal (VCAT)	27,848
Criminal matters	
SCV	359

CCV	3,165
MCV	101,787
ChCV	4,644

The case clearance rates, and number of matters initiated and finalised for the year ended 30 June 2021 are below:

Jurisdiction	Case clearance rate for 2020-21 %	Number of matters initiated in 2020-21	Number of matters finalised in 2020-21
Civil matters			
SCV	98.3	26,901	26,452
CCV	94.8	5,770	5,469
MCV	87.4	68,847	60,145
ChCV	103.0	20,620	21,304
CoCV	93.4	7,053	6,591
VCAT	81.8	75,290	61,563
Criminal matters			
SCV	92.9	676	628
CCV	83.4	3,527	2,942
MCV	80.0	134,835	106,740
ChCV	107.2	8,303	8,903

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Relevant text:

Mr HIBBINS: Thank you, Chair. Thank you for appearing here this evening. I want to ask about VCAT. Of the 18.2 per cent of cases that were not disposed of in the financial year, how many of those were in the residential tenancies list?

Ms ANDERSON: Thanks, Mr Hibbins. I noted that you asked the Secretary of the department that question this morning, and I endeavoured to find out the answer for you, but I will take it on notice.

Mr HIBBINS: Thank you. I guess, as part of that, that would then give the overall quick case clearance rate for the residential tenancies list.

Ms ANDERSON: Yes, I would need to take that on notice.

Answers:

In 2020-21, there were 44,685 cases initiated and 34,132 finalised for the Residential Tenancies list. The case clearance rate was 76.4%.

As at 30 June 2021, there were 16,419 pending cases in VCAT’s Residential Tenancies List, amounting to 59% of VCAT’s total pending cases.

Mr HIBBINS: Thank you. Do you know how many of the cases were initiated by renters and how many by landlords?

Ms ANDERSON: I understand that of those 16 000 I just mentioned the majority were initiated through landlords, in terms of bond and compensation. I will take on notice, Mr Hibbins, the remainder.

Answer:

Of the 16,419 pending cases at 30 June 2021, 16% were initiated by renters and 81% by landlords.

Mr HIBBINS: Okay. Thank you. Are you able to provide any data in terms of how many were initiated after the rental dispute resolution scheme ended at the end of March 2021?

Ms ANDERSON: I will take that on notice.

Answer:

Of the 44,685 cases initiated in 2020-21 in the Residential Tenancies List, 11,265 were initiated in the three months April-June 2021 inclusive.

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Mr NEWBURY: Yes. Thank you. In terms of data, do you have anything with you in relation to the VCAT case loads?

Ms ANDERSON: Yes. Depending on what you are interested in.

Mr NEWBURY: Number one, it probably is easier to take on notice anything in relation to the list numbers if you are able to provide that, but just if you would not mind, without going through each data line, line by line, would you make an observation that in relation to growth there, is there a growth in some of the lists that has been ongoing that has not been COVID related—i.e., is there a similar—

Ms ANDERSON: Oh, I see what you are asking.

Mr NEWBURY: Do you know where I am going?

Ms ANDERSON: Yes, I do. I am not sure if I am in a position to answer it, though. In VCAT there is pressure on many of their lists. Having that historical sort of look at it would be I understand what you are asking because you would be wanting to see: has it been increasing pre COVID?

Mr NEWBURY: You know, the things that we need to do to fix it.

Ms ANDERSON: Yes. I will take that on notice because my data goes to the COVID period in the last financial year.

It is an expected feature of a dispute resolution system that there is always a level of pending cases (ie, commenced but unresolved as they await hearing or mediation).

Clearance rates for the last three full financial years prior to the pandemic were 98% (2016-17), 98% (2017-18) and 97% (2018-19).

Overall pending case numbers grew across those years from 8,288 cases (EOFY 2016-17) to 9,653 cases (EOFY 2018-19).

Mr NEWBURY: Thank you. I really appreciate that. Do you have anything on the length of waiting time in relation to VCAT?

Ms ANDERSON: VCAT is continuing to dispose of most of its matters within six months of the date of filing. Residential tenancy: there are pressures, and some of those are not getting heard within 12 months. Planning list: it is around a 25- to 35-month delay from the beginning to the finalisation.

Mr NEWBURY: And if there is any further data—I know you have just read that out, but if there is any other thing that is pertinent—would you mind providing it?

Ms ANDERSON: I can go back to the tribunal and see.

Answer:

VCAT Lists	No. of cases initiated in 2020-21	No. of cases finalised in 2020-21	Case clearance rate for 2020-21	Median time from initiation to finalisation in 2020-21 (weeks)
Building and Property	2,406	1,995	83%	36
Civil Claims	7,608	5,652	74%	23
Guardianship	14,169	13,361	94%	N/A
Human Rights	492	480	98%	19
Legal Practice	90	113	126%	29
Planning and Environment	2,136	2,072	97%	29
Owners Corporations	2,665	2,971	111%	14
Residential Tenancies	44,685	34,132	76%	5
Review and Regulation	1,039	787	76%	30
Total numbers	75,290	61,563	82%	

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Mr HIBBINS: Okay. All right, thank you. I understand that there has been a number of new appointments across jurisdictions that will be pretty vital in helping to get through all the cases. Are

you able to give the committee a summary of just what appointments have been made in each jurisdiction in terms of the number of new appointments and the impact that that might have on helping clear the backlog?

Answers:

Jurisdiction	Number of new judicial/statutory appointments in the year ended 30 June 2021*
SCV	nil
CCV ¹	nil
MCV ²	5 Judicial Registrars
ChCV	4 Judicial Registrars appointed in May 2021
CoCV	3 coroners (2 appointed in December 2020 and 1 appointed in June 2021)
VCAT ³	nil

* only additional appointments (in excess of retirements/resignations) have been included.

¹ Additional judicial officers were announced in May 2021 in relation to appointments to occur in 2021-22.

² Five magistrates were to be appointed in 2020-21 but not appointed until September 2021.

³ Nineteen VCAT members retired or resigned during FY 2020-21. Four of these were sessional members who regularly heard RT matters as well as matters in other VCAT Lists. One new appointment was made in the same period. In late June 2021, 24 existing VCAT sessional members had the remainder of their appointments converted to non-sessional status. These were not new appointments.

In relation to the Magistrates' Court, the additional judicial resources – together with the establishment of the Online Magistrates' Court, and agile listing practices from late October 2020 – helped to stabilise the increase in pending matters and improved case clearance rates with the civil rate increasing to 98.5% and the criminal rate reaching 105.3% from November 2020 to June 2021.

The Children's Court is actively case managing child protection cases by listing Readiness Hearings (judicial resolution hearings) prior to final hearing. The new Judicial Registrars are conducting the Readiness Hearings, and from June to the end of October 2021, they conducted 416 Readiness Hearings with 214 (51 percent) cases settling without the need for a contested hearing. During October, the settlement rate increased to 62% for Readiness Hearings conducted by Judicial Registrars.

The additional coroners provided additional capacity to address open, active investigations during the latter half of 2020-21. As at 31 October 2021, there were 5,086 open investigations compared to 5,189 as at 30 June 2021.

Mrs McARTHUR: I look forward to hearing your response. How many magistrates have been appointed in the last year, and out of those how many have been appointed to regional areas?

Ms ANDERSON: As I mentioned to Mr Hibbins, I will take that on notice because I do not have that at hand.

Answer:

Four magistrates were appointed in 2020-21 to replace a retiring magistrate. These are therefore not considered new appointments.

A total of 25 (out of 119) magistrates were assigned to regional courts in 2020-21. Assignments are made by the Chief Magistrate on a two-year cycle.

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Mrs McARTHUR: Has there been any assessment done of the restrictive access of all parties to courts during the COVID period and the financial cost and effect on court priorities—for example, resolving domestic violence criminal matters?

Ms ANDERSON: There has been a very strong focus in the Magistrates Court on hearing family violence matters, so an assurance that any interim matter would be heard is a matter of priority to ensure the safety of the person seeking that protection, and the number of contested family violence matters is now starting to increase as the courts are opening up and being able to hear matters in person. But certainly in respect of interim family violence, they were prioritised to be heard online. There was investment in a pre-court protocol to endeavour to support matters to be agreed so they did not have to get to court, but the protection was still provided to those seeking the protection.

I am not able to answer the first part of your question, Mrs McArthur. It is a great one—thank you—and there is a lot of complexity to it, so I might just need to think about that one a little more.

Mrs McARTHUR: Okay. You can take it on notice if you prefer.

Ms ANDERSON: Yes, I will. I cannot guarantee what I—it was quite a complex question. You had a good research proposal in there, I think.

Answer:

From the start of the pandemic, the Courts Group has focused on the delivery and accessibility of justice. All courts and VCAT have continued to operate throughout, largely through remote hearings. In addition, in person hearings were conducted for urgent matters including hearings related to safety, liberty and matters of a time-sensitive nature. This included hearings for family violence applicants and other vulnerable court users including at risk children.

No formal assessment has been undertaken on what if any financial costs resulted from the limited in person access to courts throughout the pandemic, other than the costs incurred by CSV for the technology necessary to support the increase in on line hearings.