



2

COURT OPERATIONS



COURT OF APPEAL

As at 31 December 2023

PRESIDENT

The Honourable Justice
Julie Ward

JUDGES OF APPEAL

The Honourable Justice
Anthony Meagher

The Honourable Justice
Fabian Gleeson

The Honourable Justice
Mark Leeming

The Honourable Justice
Anthony Payne

The Honourable Justice
Richard White

The Honourable Justice
David Hammerschlag

The Honourable Justice
Anna Mitchelmore

The Honourable Justice
Jeremy Kirk

The Honourable Justice
Kristina Stern

The Honourable Justice
Christine Adamson

The Honourable Acting Justice
Carolyn Simpson

The Honourable Acting Justice
John Basten

The Honourable Acting Justice
John Griffiths

Overview

The Court of Appeal was established in 1966 as Australia's first intermediate appellate Court. It hears appeals in civil matters against the decisions of the judicial officers of the Supreme Court, other courts, and tribunals within the State. It also determines applications for judicial review. Its judgments are routinely cited around the nation and by foreign courts.

The Court of Appeal comprises the Chief Justice, the President of the Court of Appeal and nine judges of appeal. In addition, the Chief Judge of each trial division is a member of the Court. Acting judges of appeal also sit in the Court of Appeal when required, and on occasion, a judge of the Supreme Court's trial divisions may sit as an additional judge of appeal for the duration of a specific case.

The Court of Appeal sits in panels, normally constituted by three judges of appeal. If the Judges do not agree, the majority view prevails. Occasionally, a five-judge bench will convene if there is a perceived conflict between two earlier decisions of the Court, or where a party seeks to challenge a legal principle set in an earlier decision of the Court of Appeal.

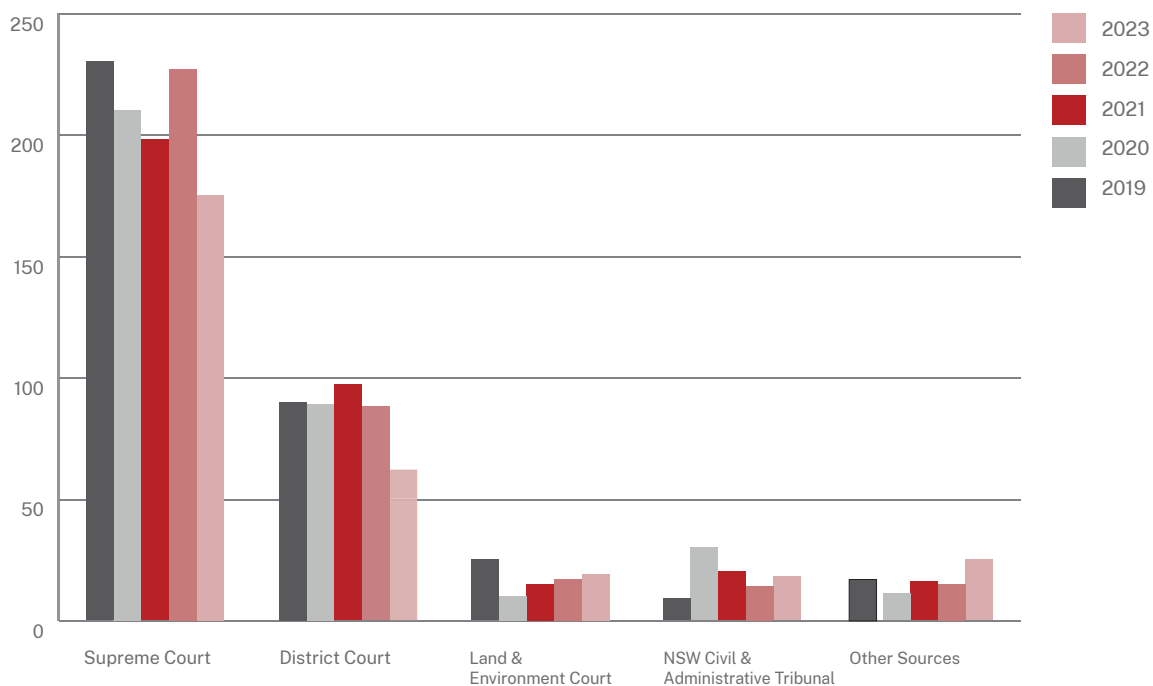
Two judges of appeal can determine applications if they relate solely to the amount of compensation for personal injury or death or is a challenge to an interlocutory judgement of a lower court. Applications for leave to appeal may also be dealt with by two judges, although a single judge of the Court of Appeal can determine if the issue of leave should be considered during the substantive appeal hearing, not separately. A judge of appeal sitting alone will also determine many interlocutory applications in an appeal.

Appeals against decisions of the Court of Appeal are made to the High Court of Australia in matters of public or general importance. However, before the appeal can progress, the applicant must first obtain from the High Court a grant of special leave to appeal.

STATISTICS

	2022	2023	Variance
Filings	354	303	-%14
Disposals	311	363	%17
Pending	208	148	-29%

Figure 1: illustrates the sources of filings between 2019 and 2023



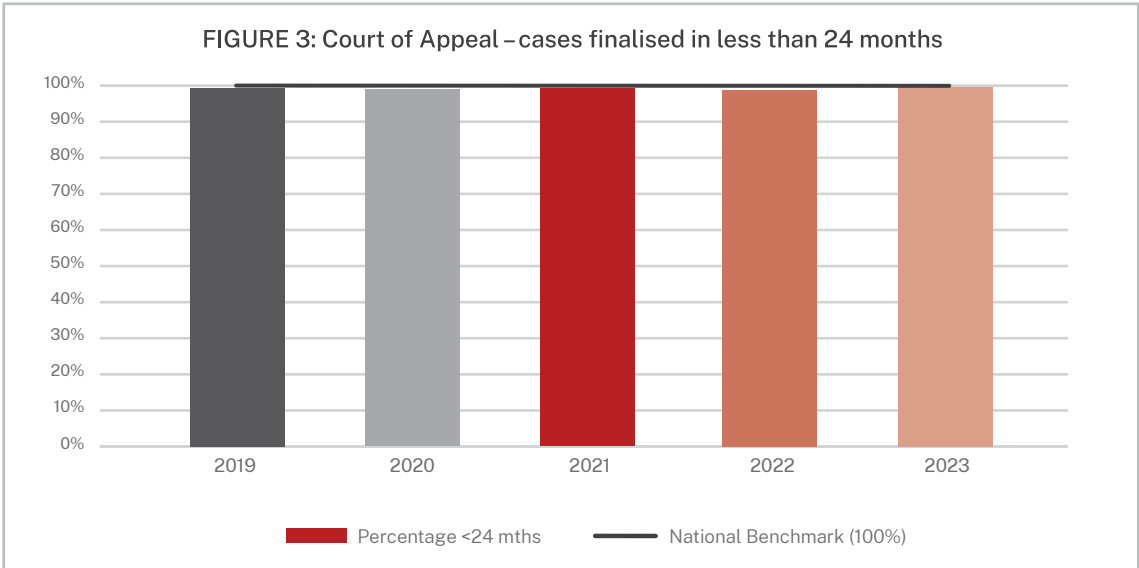
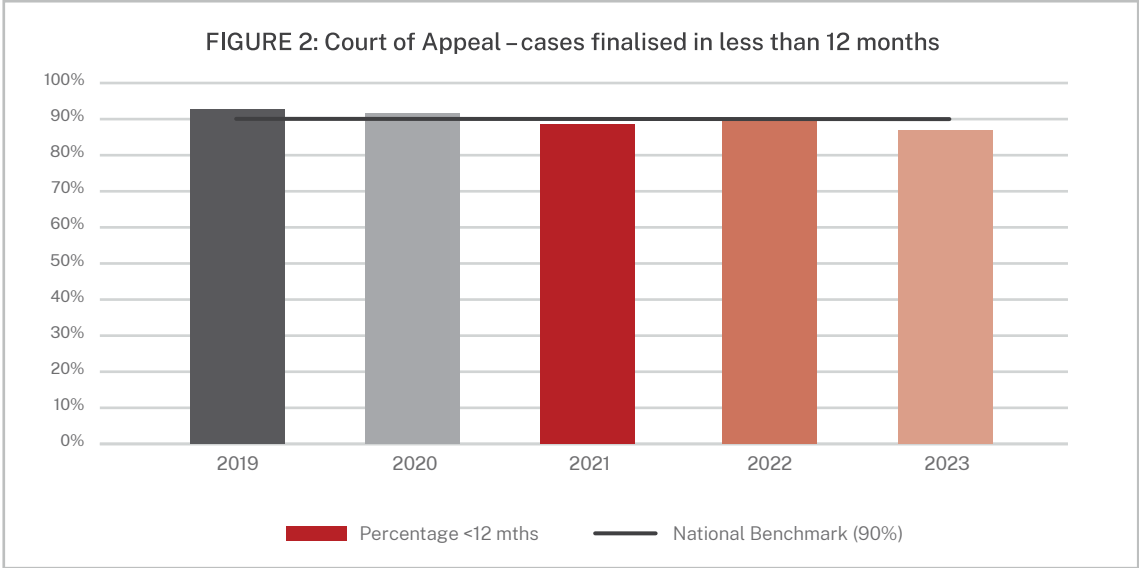
Of the 303 new cases, the majority were commenced by a notice of appeal, totalling 165 cases. In addition, 101 cases were initiated by a summons seeking leave to appeal while 37 cases were brought forth by a summons for the Court of Appeal to exercise its replace with supervisory jurisdiction.

There were 363 final disposals in 2023, which occurred by the following methods:

- judgment following hearing of either an appeal, a summons for judicial review or a concurrent hearing¹ -65%
- refusal of the appeal, original jurisdiction summons or leave application -14%
- settlement of the appeal, original jurisdiction summons or leave application -4%
- discontinuance or other final disposal of the appeal, original jurisdiction summons or leave application -17%

¹ A concurrent hearing enables the application for leave to appeal and, where leave is granted, the consequent appeal to be determined in a single hearing

Figures 2 and 3: illustrate the Court of Appeal's achievements against national benchmarks for age of cases at finalisation. In 2023, 87% of cases were finalised within 12 months, falling marginally short of the national benchmark of 90%. 99.7% of cases were finalised within 24 months, falling a fraction short of the national benchmark of 100%.



	2019	2020	2021	2022	2023
COURT OF APPEAL²					
Filings (net new cases)	366	346	341	354	303
Filings of appeals / applications for relief	231	214	223	236	202
Filings of applications for leave to appeal ³	135	132	118	118	101
Disposals (final disposals)	339	381	346	311	363
Disposals of appeals / applications for relief	213	232	231	207	247
Disposals of applications for leave to appeal	126	149	115	104	116
Pending cases at 31 December	205	170	165	208	148
Appeals / applications for relief	142	124	124	157	114
Applications for leave to appeal	63	46	41	51	34

TIMELINESS- AGE OF PENDING CASES AT 31 DECEMBER⁴

Number pending (% of total)	National standard ⁵	2019	2020	2021	2022	2023
Cases within 12 months of age	90%	191 (93%)	157 (92%)	152 (92%)	199 (96%)	136 (92%)
Cases within 24 months of age	100%	201 (98%)	168 (99%)	163 (99%)	207 (99%)	148 (100%)

² These statistics exclude notices of intention to appeal, as notices do not commence a substantive appeal or application. Statistics cover Court of Appeal cases only, which are not comparable with 'civil appeal' statistics reported within the Productivity Commission's Report on Government Services (which count all civil cases of an appellate nature, including appeals and reviews dealt with in the Common Law and Equity Divisions).

³ This includes leave applications and applications where parties have elected to have a concurrent hearing of both the leave application and the appeal (if leave is granted).

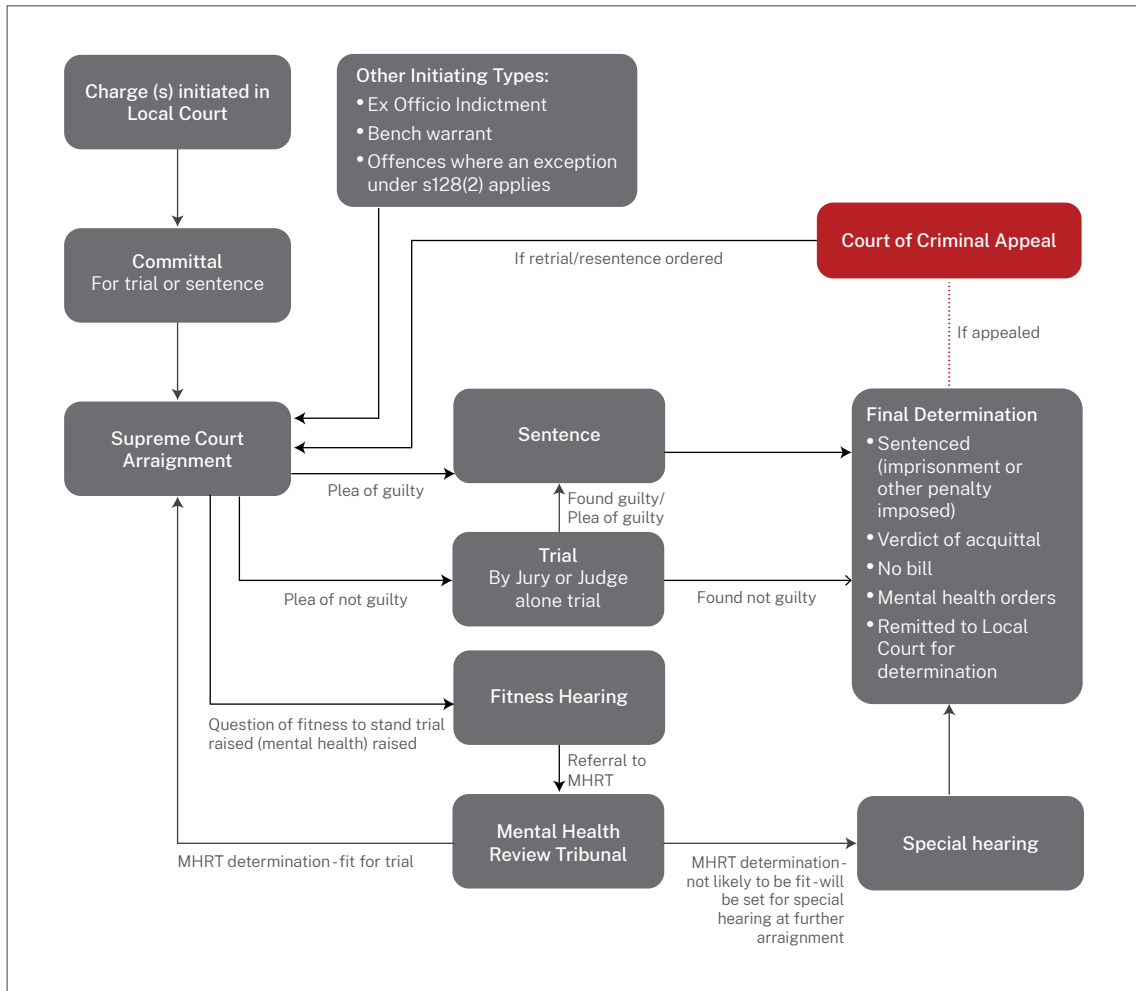
⁴ Age of cases includes time taken to deal with any associated application for leave to appeal. The age of cases is impacted by factors outside of the Court's control, such as the time taken to complete relevant cases in other courts/tribunals or interlocutory appeals, time taken by external agencies/individuals to prepare essential reports, and time occupied by trials that result in a hung jury.

⁵ National standards are derived from the 'backlog' performance indicator within 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. For civil non-appeal cases, all supreme courts in Australia continue to have difficulty achieving the national standards.

HOW CRIMINAL MATTERS ARE DEALT WITH AT THE SUPREME COURT

The Supreme Court of NSW deals with the following offences on Indictment:

- Murder
- Terrorism
- Treason / Treachery
- Any offence for which the maximum penalty is life imprisonment, and the Director has formed the opinion that the imposition of a life sentence may be appropriate.
- Offences where an exception under s128(2) of the Criminal Procedure Act is approved by Chief Justice of the Supreme Court



COURT of CRIMINAL APPEAL

Overview

The Court of Criminal Appeal is the State's highest court for criminal matters. A person who has been convicted or who pleaded guilty and been sentenced by a Supreme Court or District Court judge, may appeal to the Court of Criminal Appeal. Appeals may also be brought from decisions of the Land and Environment Court in its criminal jurisdiction.

The *Criminal Appeal Act 1912* sets out the Court's functions, powers and jurisdiction; other legislation also invests jurisdiction in the Court for certain matters. The Court's procedural requirements are set out in the *Supreme Court (Criminal Appeal) Rules 2021* and Practice Note SC CCA 1 – Court of Criminal Appeal – General. There are specific forms which must be used for filing in the Court of Criminal Appeal.

The judges hearing any particular case are selected from the Chief Justice, the President of the Court of Appeal, the judges of appeal, the Chief Judge and other nominated judges of the Common Law Division. Appeals are normally heard by three judges, although five judges may sit when significant legal issues need to be considered. If the judges do not agree, the majority view prevails.

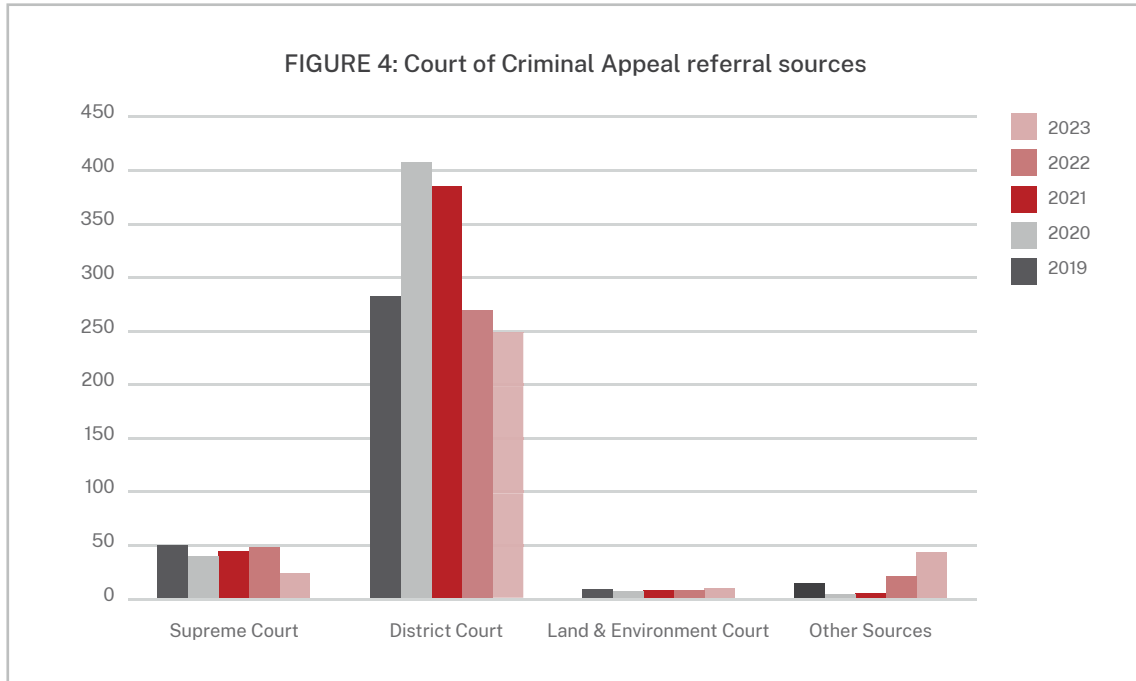
There are a number of grounds for appeal, including a challenge to a conviction involving a question of law. The Court of Criminal Appeal may also grant leave to appeal in matters involving questions of fact or mixed questions of fact and law. It may also grant leave to appeal in cases where the severity or adequacy of the sentence is challenged.

To appeal to the High Court from the Court of Criminal Appeal, an applicant must first obtain special permission a grant of special leave to appeal from the High Court.

STATISTICS

	2022	2023	Variance
Filings	346	326	-6%
Disposals	376	416	11%
Pending	191	101	-47%

Figure 4: illustrates the sources of new filings between 2019 and 2023.



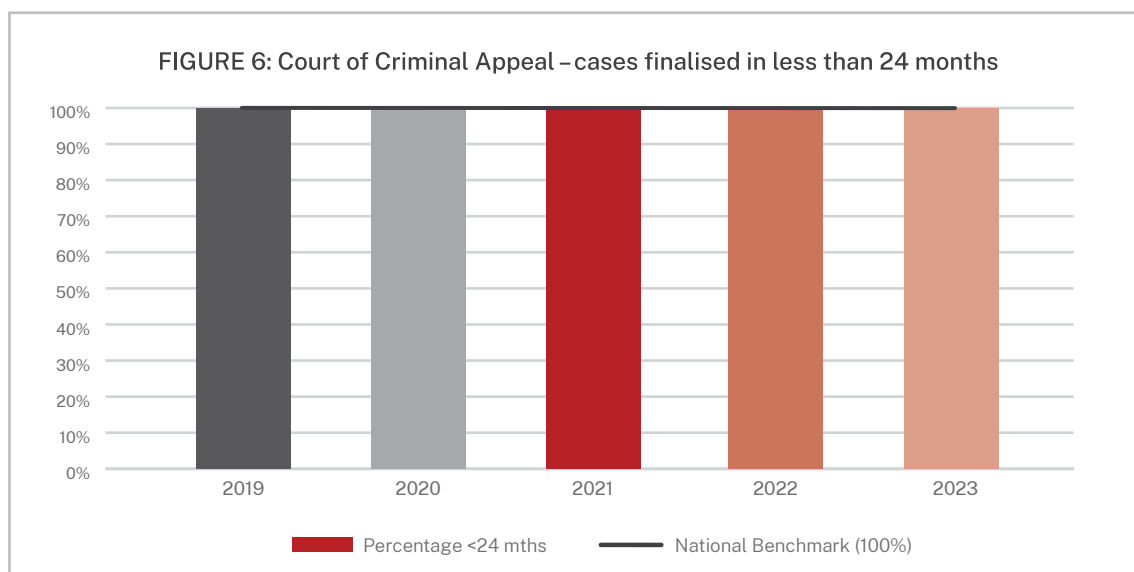
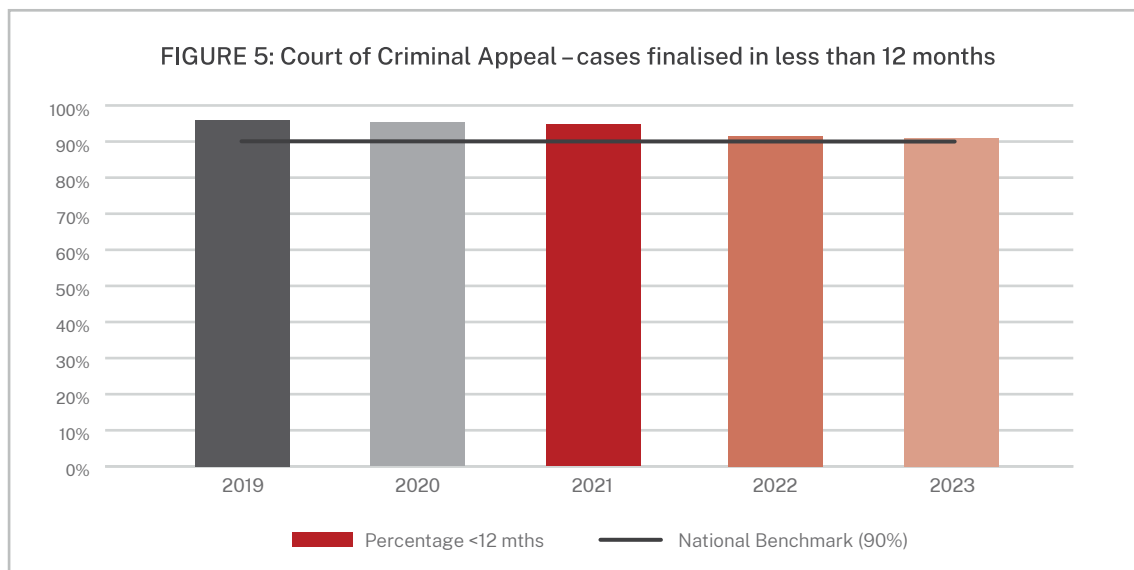
Out of the 326 new cases, the majority were appeals against severity of sentence, totalling 146 cases (19 of which were filed by the Crown), 86 were appeals against conviction, 31 were appeals against interlocutory judgments, 11 were bail reviews and 52 were cases of other types.

In 2023, the percentage of conviction appeals decreased to 26%, down from 34% in 2022. Conviction appeals are generally more intricate and require lengthier hearings compared to appeals against severity of sentence alone.

There were 416 final disposals in 2023, which occurred by the following methods:

- **Judgment** following a substantive hearing - 91%
- **Abandonment** or Withdrawal of an appeal prior to hearing -5%
- **Dismissal** or other disposal methods-4%

Figures 5 and 6 illustrate the Court of Criminal Appeal's achievements against national benchmarks for age of cases at finalisation. The Court of Criminal Appeal continues to demonstrate its efficiency in swiftly finalising cases, positioning itself as one of the most timely courts nationwide. At the end of 2023, national benchmarks for both categories were either met or exceeded, with 91% of cases finalised under 12 months and 100% of cases finalised under 24 months.



	2019	2020	2021	2022	2023
COURT OF CRIMINAL APPEAL⁶					
Filings (net new cases)	355	457	442	346	326
Appeals against conviction	101	126	114	116	86
Appeals against sentence ⁷	206	289	253	157	146
Appeals against interlocutory judgments	20	24	35	33	31
Bail reviews	13	9	19	12	11
Other Appeals	15	9	21	28	52
Disposals (final disposals)	373	417	416	376	416
Appeals against conviction	100	109	118	105	138
Appeals against sentence	231	266	232	197	191
Appeals against interlocutory judgments	12	28	29	38	22
Bail reviews	15	12	20	18	11
Other Appeals	15	2	17	18	54
Pending cases at 31 December	155	195	221	191	101
Appeals against conviction	61	78	75	87	35
Appeals against sentence	84	108	129	86	46
Appeals against interlocutory judgments	8	4	10	7	14
Bail reviews	2	2	2	3	0
Other Appeals	0	3	5	8	6

⁶ These statistics exclude appeals from decisions of the NSW State Parole Authority.

⁷ Includes Crown Appeals

TIMELINESS- AGE OF PENDING CASES AT 31 DECEMBER⁸

Number pending (% of total)	National standard ⁹	2019	2020	2021	2022	2023
Cases within 12 months of age	90%	150 (97%)	189 (97%)	215 (97%)	182 (95%)	98 (97%)
Cases within 24 months of age	100%	155 (100%)	194 (99%)	221 (100%)	191 (100%)	101 (100%)

⁸ Age of cases includes time taken to deal with any associated application for leave to appeal. The age of cases is impacted by factors outside of the Court's control, 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.

⁹ National standards are derived from the 'backlog' performance indicator within 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. For civil non-appeal cases, all supreme courts in Australia continue to have difficulty achieving the national standards.



COMMON LAW: CRIMINAL

Judges of the Common Law

Division hear the most serious indictable offences in New South Wales. These matters include homicide, terrorism and other offences for which the penalty may include life imprisonment.

Other matters involving serious criminality or matters of public interest may be brought before the Court with the Chief Justice's approval.

Overview

After entry into the Criminal List, the next step is usually an arraignment hearing, which is held each month during law term. The aim of the arraignment procedure is to minimise the loss of available judicial time that occurs when trials are vacated after they are listed for hearing, or when a guilty plea is entered immediately prior to, or on the day of the trial's commencement. The arraignment procedure contemplates the involvement of counsel at an early stage of the proceedings. This allows both the prosecution and defence to consider a range of issues that may provide an opportunity for an early plea of guilty, or to shorten the duration of the trial. Procedures for arraignment are detailed in Practice Note SC CL 2.

STATISTICS

	2022	2023	Variance
Filings	85	70	-17%
Disposals	90	97	8%
Pending	124	97	-22%

All filings in 2023 were initiated by the NSW Office of the Director of Public Prosecutions, with 68 of these cases relating to homicide offences.

- 50 matters were listed for trial, with 3 being a judge-alone trial
- 8 were listed for fitness hearings (to deal with the question of the defendant's capacity to stand trial)
- 11 entered a plea of guilty: 8 at arraignment and 3 before or during trial
- 1 matter resulted in a 'No Bill' and was discontinued

There was a notable decrease in the number of trials that were held in 2023. A total of 41 trials took place involving 52 defendants, while in 2022, there were 71 trials involving 86 defendants. In addition to trials, 3 Fitness Hearings, 5 Section 31 Hearings and 1 Special Hearing took place in 2023.

The longest trial to commence in 2023 ran for 12 weeks, although this was eclipsed by *R v Cranston*, a matter which commenced on 26 April 2022 and ran for 168 days until a verdict was reached on 7 March 2023. There were 4 trials that ran for 8 weeks or longer. Trial time has decreased since 2022, with the longest trial in 2022 spanning 34 weeks and 13 trials that ran for 8 weeks or longer. The average trial length during 2023 was 4 weeks, a decrease from the 2022 average of 5 weeks. It is important to note that these statistics pertain to the duration of the trial alone and do not include other stages of the criminal process, such as arraignment, pre-trial hearings and sentencing.

The Court prepared and handed down 72 sentences during 2023, an increase of 38% from 2022, where 52 sentences were handed down.

There were 97 final disposals in 2023, which occurred by the following methods:

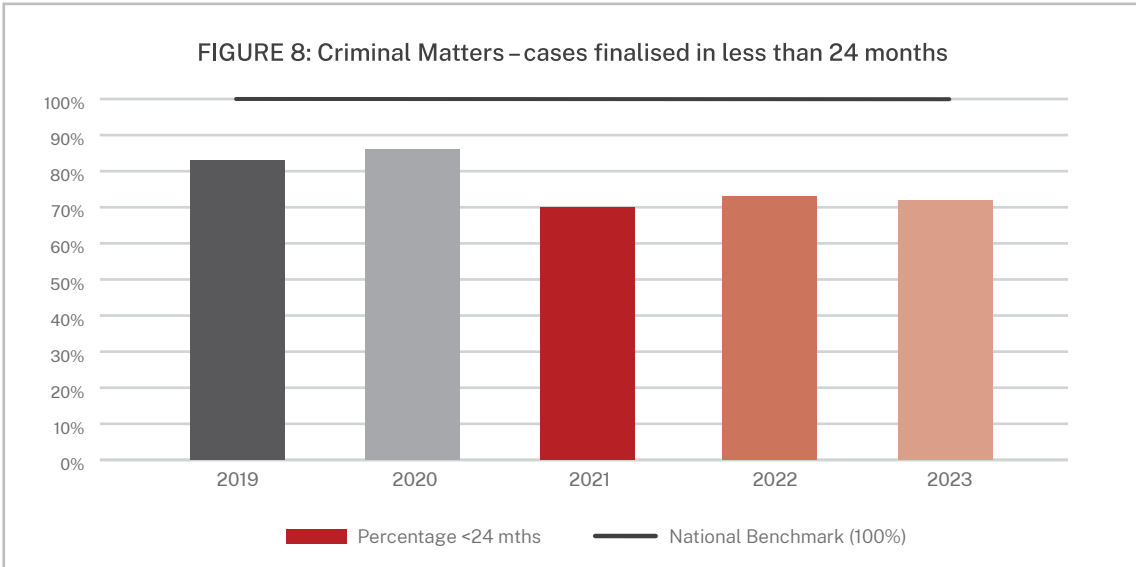
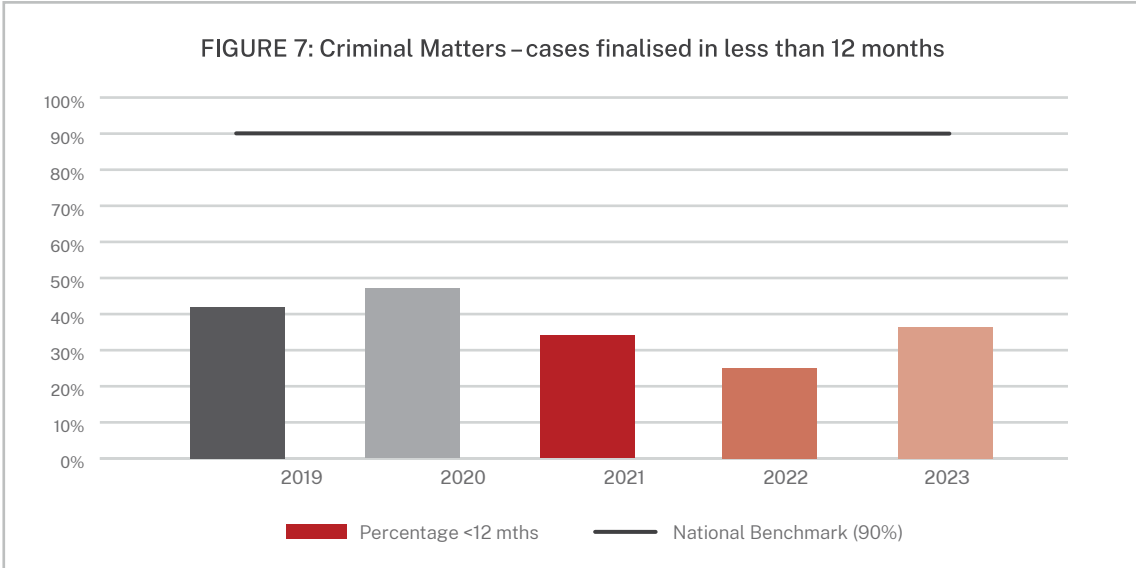
- **Judgment** following hearing (sentence/acquittal) - 80%
- **Referral/transfer** to other court/tribunal –3%
- **Other** disposal methods-14%

HIGH RISK OFFENDER LIST

The High Risk Offender list was established in 2018, this list provides case management for urgent matters relating to the *Crimes (High Risk Offenders) Act 2006*. Statistics relating to the High Risk Offender List can be found on page 46.

¹⁰ Includes Section 31 Hearings

Figures 7 and 8 illustrate the performance of the Common Law Division in its criminal jurisdiction against national benchmarks for age of cases at finalisation. In 2023, 37% of cases were finalised within 12 months, falling below the national benchmark of 90%. 72% of cases were finalised within 24 months, falling short of the national benchmark of 100%.



When evaluating the Court’s performance against the national benchmarks it is important to note that the majority of matters presented to this Court involve the most serious category of indictable offences, whereby a life sentence may be imposed. In contrast, the criminal lists of other Australian supreme courts handle a wider spectrum of offences with shorter maximum sentences. This disparity makes it difficult to directly compare finalisation times with other Courts. Due to the complexity of cases heard in the Court, meeting the national timeliness benchmark of 12 months from committal to sentencing is a significant challenge.

Bails

Under the *Bail Act 2013*, the Supreme Court may hear release, variation and detention applications if a bail decision has been made by the lower courts. Once an application is received, it is scheduled for a call-over or, if deemed appropriate by the Court, listed by the Registrar in chambers.

	2022	2023	Variance
Filings	2,235	2,536	13%
Disposals	2,276	2,521	11%
Pending	163	188	15%

Release applications made up 73% of bail applications lodged in 2023, as compared to 92% in 2022. The remaining applications were for variation of bail and detention applications, lodged by the Crown.

During 2023, 21% of disposals were the result of the applicant withdrawing the application before or at the scheduled hearing, as compared with 24% in 2022. For cases that were finalised by a determinative outcome (bail granted, refused or varied) during 2023:

- 16% were finalised within 20 days of lodgment of an application-an increase in time when compared to 2022 (22%)
- 21% were finalised within 25 days of lodgment of an application-an increase in time when compared to 2022 (27%)
- 31% were finalised within 32 days of lodgment of an application-a decrease in time when compared to 2022 (28%)

	2019	2020	2021	2022	2023	
COMMON LAW- CRIMINAL¹¹						
Filings (net new cases) ¹²	103	112	82	85	70	
Disposals (final disposals) ¹³	106	88	88	90	97	
Pending cases at 31 December	110	134	128	124	97	
Bails List¹⁴						
Filings (net new cases)	2,643	2,034	2,173	2,235	2,536	
Disposals (final disposals)	3,418	1,999	2,126	2,276	2,521	
Pending cases at 31 December	144	179	226	163	188	
TIMELINESS- AGE OF PENDING CASES AT 31 DECEMBER¹⁵						
Number pending (% of total)	National standard ¹⁶	2019	2020	2021	2022	2023
Cases within 12 months of age	90%	74 (67%)	82 (61%)	69 (54%)	70 (56%)	52 (54%)
Cases within 24 months of age	100%	97 (88%)	119 (89%)	115 (90%)	104 (84%)	83 (86%)

¹¹ 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). The Court uses counting rules that align with national counting rules, except concerning referrals from and to the Mental Health Review Tribunal (MHRT). When 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.

¹² 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).

¹³ Disposals are counted at sentence, acquittal or other final disposal. Other final disposal includes referral to the Mental Health Tribunal, no bill, death of the accused, order for issue of a bench warrant and transfer to another court.

¹⁴ The figures for Bails List cases count the number of applicants, not the number of applications. At a Bails List hearing, the Court may deal concurrently with multiple applications for the same applicant. The statistics for 2019 are not directly comparable to previous years. Practice Note SC CL11 commenced on 3 June 2019, setting out new procedures for preparing and filing applications for hearing in the Bails List. Applications are now only accepted 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.

¹⁵ Statistics exclude bail applications

¹⁶ National standards are derived from the 'backlog' performance indicator within 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. For civil non-appeal cases, all supreme courts in Australia continue to have difficulty achieving the national standards.

COMMON LAW: CIVIL

Judges of the Common Law

Division deal with serious personal injury and contractual matters, defamation, actions for possession, professional negligence suits and claims for compensation arising out of institutional abuse.



In 2018, institutional abuse matters were added as a nature of claim in response to the findings from the Royal Commission into Institutional Responses to Child Sexual Abuse and the lifting of the limitation period for such civil claims. There was a 43% increase in claims between 2022 and 2023, the highest number of filings since the introduction of the nature of claim.

It is comprised of several lists including:

- **Administrative Law List:** deals with statutory appeals arising from an error of law or on a question of law, administrative law matters commenced under section 69 of the *Supreme Court Act 1970* and matters under the *Industrial Relations Act 1996*.
- **Common Law General List:** comprises all civil claims that do not fit the parameters of specialised lists. It includes money claims, personal injury claims (including institutional abuse matters), claims for possession (excluding equitable claims), breach of contract, personal property damage, malicious prosecution, and claims under the *Compensation to Relatives Act 1897*.
- **Defamation List:** Matters filed in this List are managed in accordance with the provisions of the *Defamation Act 2005*.
- **High Risk Offender List:** The High Risk Offender list was established in 2018, this list provides case management for urgent matters relating to the *Crimes (High Risk Offenders) Act 2006*.
- **Institutional Offender List**
- **Possession of Land List:** deals with all proceedings claiming possession of land.
- **Proceeds of Crime List:** matters filed in this list are managed in accordance with the various proceeds of crime legislation.
- **Professional Negligence List:** deals with claims against medical practitioners, allied health professionals (such as dentists, chemists, and physiotherapists), hospitals, solicitors, and barristers.

Class actions commenced in the Common Law Division are most commonly heard in the Common Law General List and the Professional Negligence List.

In addition to these lists, there are a range of cases that fall under the Miscellaneous List. This list includes applications made 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.

Civil hearings comprise just one area of work covered by the Common Law Division's 23 judges, who also hear the Court's criminal trials, Bail matters and all urgent applications to the Division. The Common Law Division judges are also the principal judicial resource for the Court of Criminal Appeal. The task of appropriately balancing the allocation of Common Law Division judges across these areas with fluctuating work volumes is challenging.

Overview

The civil work of the Common Law Division can be separated into two broad groups:

- Contested cases - these matters are defended and require case management;
- Uncontested cases - matters that do not require case management-such as cases proceeding to default judgment, and the miscellaneous applications dealt with administratively by Registrars and registry officers.

	2022	2023	Variance
Filings	3,586	4,295	20%
Disposals	3,018	3,783	25%
Pending	3,813	4,314	13%

In 2023, there were 2,162 contested case filings, a 3% increase from 2022. Increases in filing numbers were most notable in the Possession list (33%) and the Miscellaneous list (85%). There has also been a steady rise in personal injury claims since 2019 on account of large number of claims for compensation arising out of institutional abuse. Decreased numbers in filings were noted in the Proceeds of Crime list (24%) and the High Risk Offender list (18%).

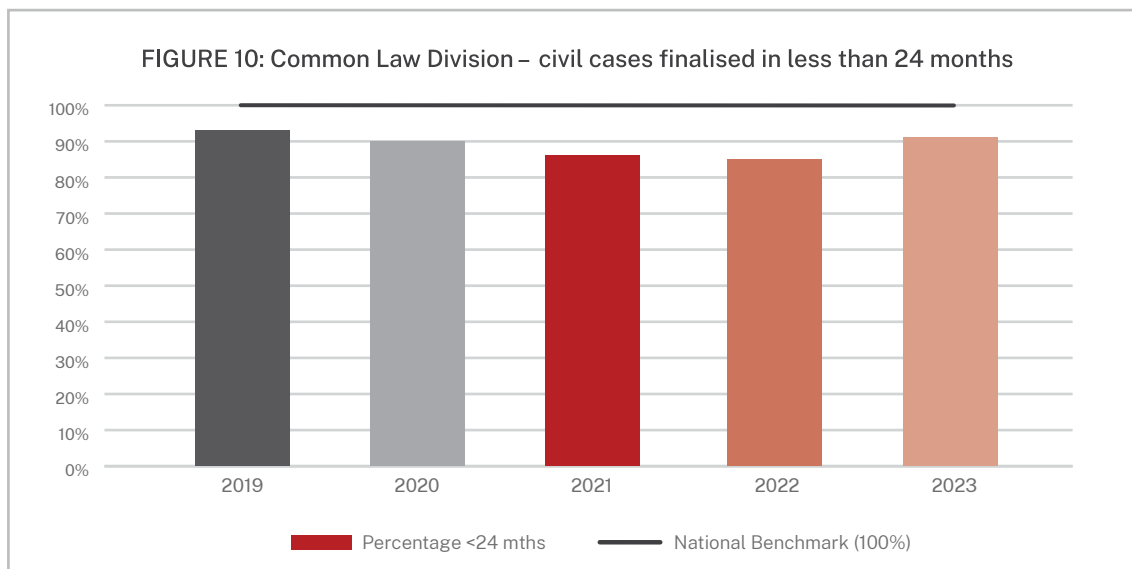
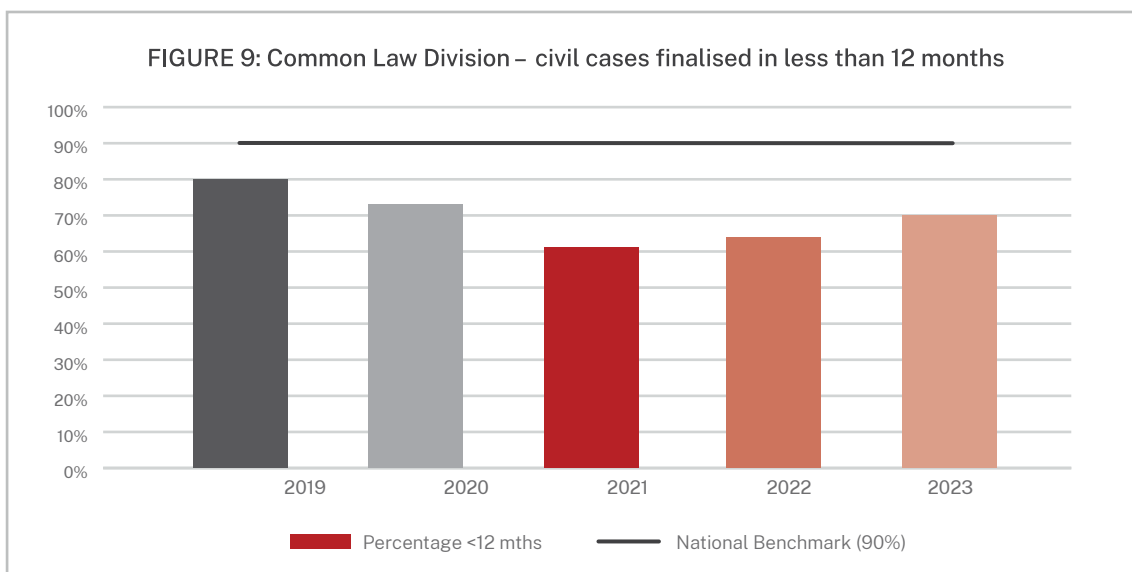
Consequently, there were mirrored increases in disposals, most notably in the Possession list (37%) and Miscellaneous list (66%). The total of 3,783 disposals included 1,944 matters which were either contested or case managed, an increase of 9% from 2022 (1,782).

Excluding Miscellaneous applications, uncontested cases in the Common Law division were disposed of by the following methods:

- **Administrative Dismissal** due to inactivity –44%
- **Dismissal** by Registrar –4%
- **Default** judgment –42%
- **Discontinuance** and other disposal methods-10%

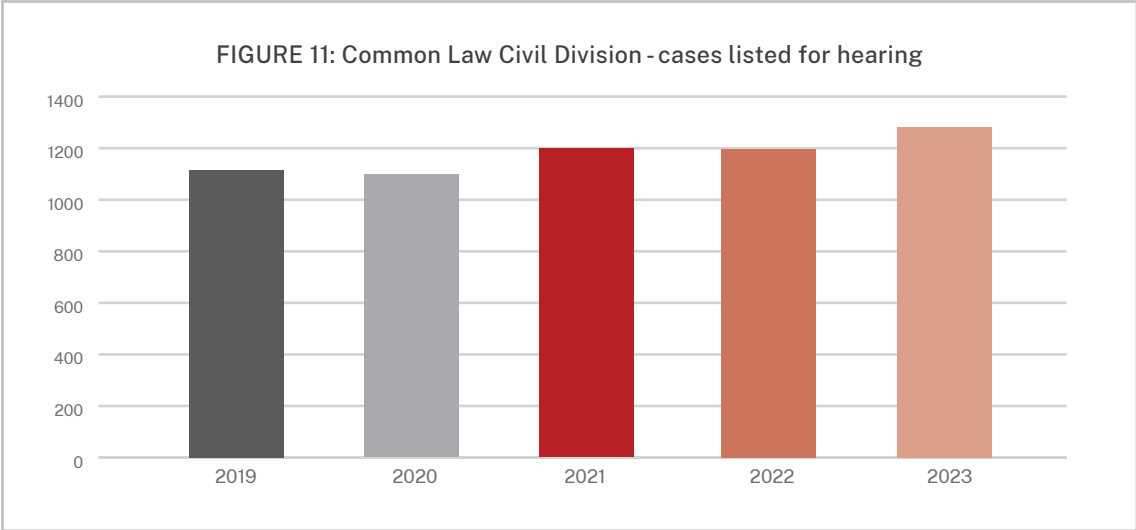
Similar to filings and disposals, the pending contested caseload increased in 2023 by 8% from 2,951 to 3,191, consequently increasing demand for case management directions and hearings in 2024. Contested cases continue to grow within the division, with an increase of 49% since 2019. The uncontested caseload rate also significantly increased by 31%, from 862 in 2022 to 1,133 in 2023.

Figures 9 and 10 illustrate the Common Law Civil Division’s performance against national benchmarks for age of cases at finalisation. In 2023, 70% of cases were finalised within 12 months, falling below the national benchmark of 90%. 91% of cases were finalised within 24 months, falling short of the national benchmark of 100%. While the national benchmarks were not met, timeliness of finalisation has improved since 2022.



There were 1,283 matters listed during 2023 for a hearing of either the substantive issues or lengthy interlocutory issues (see Figure 11). Of the matters listed, 824 proceeded to hearing, 306 settled after being listed for hearing and 153 matters were vacated.¹⁷

¹⁷ This information is collected manually, independent from the JusticeLink system. 'Not reached' refers to a situation where the parties are ready to proceed but the Court is unable to provide a judge for the hearing.



	2019	2020	2021	2022	2023
COMMON LAW DIVISION - CIVIL					
Common Law General List					
Filings	1,285	1,174	1,322	1,678	1,782
Contested claims	692	722	896	1,186	1,316
– <i>personal injury</i>	533	586	742	1,028	1,196
– <i>other claims</i>	159	136	154	158	120
Uncontested claims	237	113	93	147	173
Other summons cases ¹⁸	356	339	333	345	293
Disposals	1,061	1,096	1,081	1,274	1,483
Contested claims	552	603	694	891	1,054
– <i>personal injury</i>	392	439	528	709	883
– <i>other claims</i>	160	164	166	182	171
Uncontested claims	177	121	64	60	121
Other summons cases	332	372	323	323	308
Pending cases at 31 December	1,345	1,410	1,648	1,986	2,231
Contested claims	1,083	1,254	1,488	1,769	2,019
– <i>personal injury</i>	828	979	1,188	1,454	1,755
– <i>other claims</i>	255	275	300	315	264
Uncontested claims	112	40	31	68	79
Other summons cases	150	116	129	149	133
Administrative Law List					
Filings	115	97	142	99	108
Disposals	141	129	102	121	119
Pending cases at 31 December	78	46	90	68	63

¹⁸ Other summons cases may include contested matters.

	2019	2020	2021	2022	2023
Defamation List					
Filings	11	14	11	7	6
Disposals	53	24	13	11	7
Pending cases at 31 December	24	14	11	8	10
High Risk Offender List					
Filings	54	47	52	50	41
Disposals	60	37	51	55	55
Pending cases at 31 December	22	32	33	28	15
Possession List ¹⁹					
Filings	1,501	616	710	1,059	1,413
Disposals	1,292	1,088	664	859	1,169
–Contested	68	70	82	54	61
–Uncontested	1,224	1,018	582	805	1,108
Pending cases at 31 December	1,046	574	627	827	1,071
–Contested	83	78	45	52	62
–Uncontested	963	496	582	775	1,009
Proceeds of Crime List					
Filings	146	124	117	123	94
Disposals	108	112	95	81	71
Pending cases at 31 December	255	267	289	330	354
Professional Negligence List					
Filings	214	263	266	232	232
Disposals	199	244	217	249	264
Pending cases at 31 December	445	465	516	551	529
Miscellaneous List					
Filings	500	445	360	335	619
Disposals	564	401	404	371	615
Pending cases at 31 December	49	92	39	19	41

¹⁹ 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.

	2019	2020	2021	2022	2023
COMMON LAW DIVISION CIVIL TOTALS					
Filings	3,826	2,780	2,980	3,585	4,295
Disposals	3,478	3,131	2,627	3,018	3,783
Pending cases at 31 December	3,264	2,900	3,253	3,813	4,314

TIMELINESS- AGE OF PENDING CASES AT 31 DECEMBER

Number pending (% of total)	National standard²⁰	2019	2020	2021	2022	2023
Cases within 12 months of age	90%	2,218 (68%)	1,638 (56%)	1,917 (59%)	2,435 (64%)	2,760 (64%)
Cases within 24 months of age	100%	2,793 (86%)	2,374 (82%)	2,643 (81%)	3,196 (84%)	3,607 (84%)

²⁰ National standards are derived from the 'backlog' performance indicator within 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. For civil non-appeal cases, all supreme courts in Australia continue to have difficulty achieving the national standards.

EQUITY DIVISION

About the Division

The Equity Division exercises the traditional equity jurisdiction, dealing with claims for remedies other than damages and recovery of debts. The Division's work includes cases arising from contractual actions or rights of property, and disputes relating to partnerships, trusts or deceased estates.

It is comprised of several lists including:

- **Admiralty List:** deals with maritime and shipping disputes.
- **Adoptions List:** deals with applications for adoption orders and declarations of the validity of foreign adoptions under the *Adoptions Act 2000*.
- **Commercial Arbitration List:** comprised of matters which arise from the context of arbitral proceedings in which the Court has prescribed jurisdiction in the *Commercial Arbitration Act 2010*, by virtue of a provision within an arbitration agreement, or otherwise.
- **Commercial List:** deals with matters arising out of transactions in trade or commerce, including class actions relating to the Equity Division.
- **Corporations List:** deals with matters under the *Corporations Act 2001 (Cth)* and related legislation.
- **Equity General List:** comprises all other Equity related claims that do not fit the parameters of specialised lists.
- **Family Provision List:** deals with applications under the Family Provision Act 1982 and Chapter 3 of the *Succession Act 2006*.
- **Probate List:** deals with contentious Probate related matters.
- **Protective List:** handles cases which ensure the affairs of people deemed incapable of looking after their property, or themselves, are properly managed.
- **Technology and Construction List:** deals with matters involving complex technological issues and disputes arising out of building or engineering contracts.
- **Real Property List:** deals with disputes over land that the filing party seeks to resolve through equitable relief, rather than recovering a monetary sum as damages or debt under the common law.
- **Revenue List:** deals with the hearing of taxation related matters.

Overview

Class actions commenced in the Equity Division are assigned to either the Commercial List or the Technology and Construction List.

Proceedings in the Equity Division are case managed by Registrars and Judges of the Division to achieve the just, quick and cheap resolution of the real issues in dispute between the litigants. The work of the Division is administered through the General List and a number of specialised Lists.

STATISTICS ²¹

	2022	2023	Variance
Filings	3,620	4,061	12%
Disposals	3,505	3,855	10%
Pending	3,066	3,253	6%

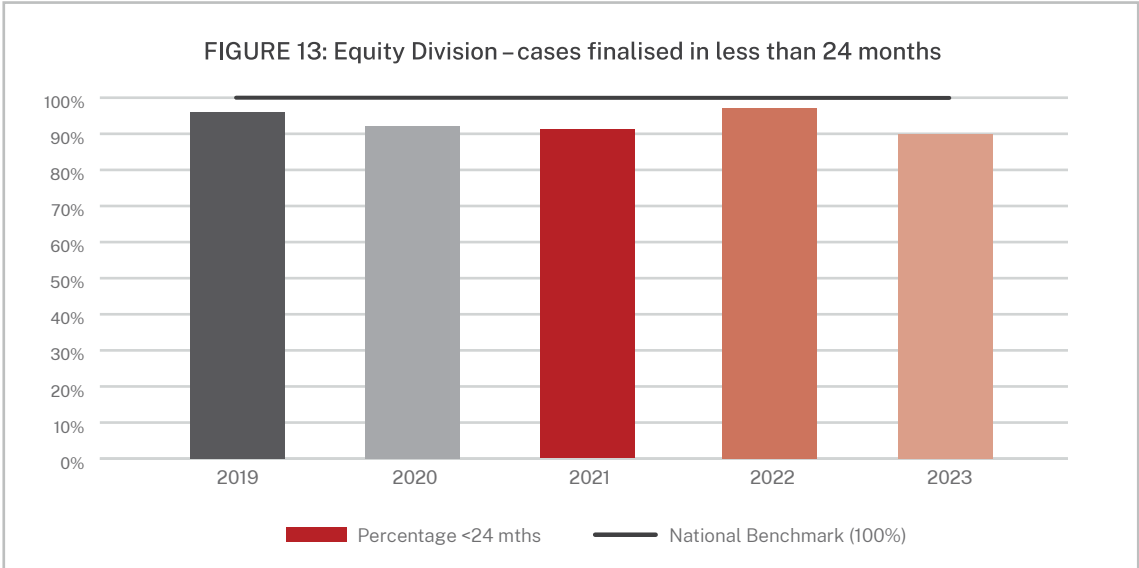
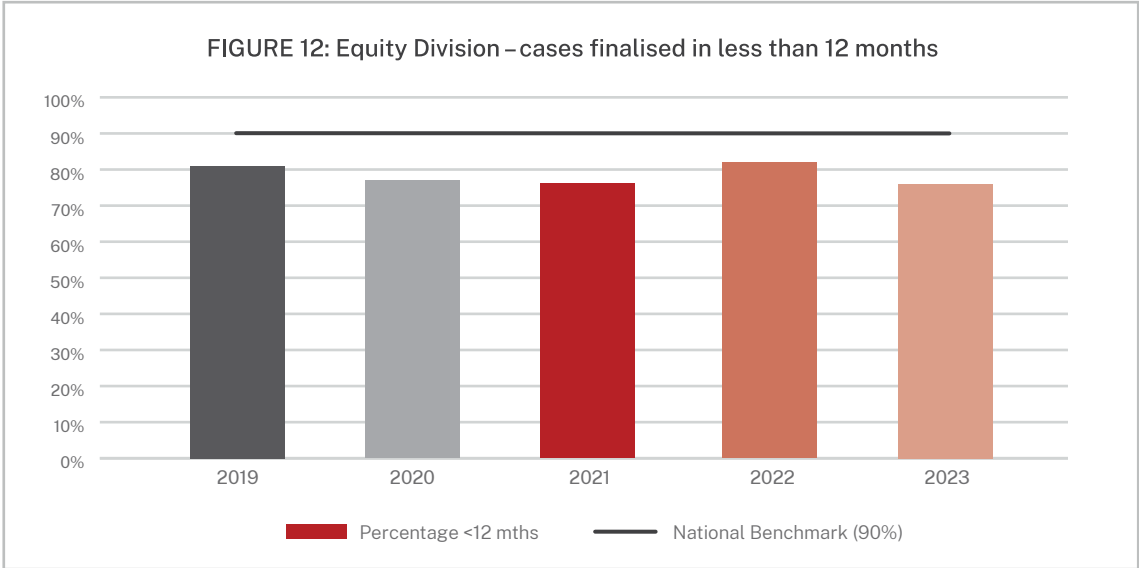
The number of filings in the Equity Division increased by 12% in 2023. While most lists had a comparable number of filings to 2022, there was a notable increase in the Succession and Probate List (19%) and Corporations List (10%). Decreases in filings were noted in the Equity General List (12%).

Reflective of the increase in filings, disposals increased in the Corporations List by 43%. Increases in disposal numbers were also noted in the Technology and Construction List (19%) and Real Property list (14%), while a decrease in disposals was most apparent in the Protective List (18%). Of the 3,855 disposals in 2023, 601 had a least one listing for hearing.

In line with the increases in filings and disposals, the pending caseload grew by 6% in 2023, with significant increases in the Family Provision List (41%) and Contentious Probate List (40%).

²¹These statistics exclude uncontested Probate matters, which are discussed further below.

Figures 12 and 13 illustrate the Equity Division’s performance against national benchmarks for age of cases at finalisation. In 2023, 76% of cases were finalised within 12 months, falling below the national benchmark of 90%. 90% of cases were finalised within 24 months, falling below the national benchmark of 100%. Timeliness of finalisation has decreased since 2022, where 82% of cases were finalised under 12 months and 97% of cases finalised under 24 months.



UNCONTESTED PROBATE

Uncontested probate applications are handled by the Court's registrars. These include applications for grants of probate, letters of administration and reseal of probate grants made outside NSW.

In July 2023, the Supreme Court launched a new online service to file, process payments, track, issue, and access grants of representation. The new guided service is simple and intuitive and assists both self-represented and legally represented applicants to easily provide all information and evidence needed, ensuring that matters are processed accurately and as quickly as possible. The digital transition has streamlined the application process and enhanced accessibility and efficiency for both Court users and registry staff.

	2022	2023	Variance
Filings	30,305	30,692	1%
Disposals	25,945	31,767	22%
Pending	9,108	10,290	13%

Filings and disposals of uncontested probate applications were at the highest rate in over 10 years. Of the 30,692 filings in 2023:

- 27,503 were for grants of probate
- 2,775 were for grants of letters of administration
- 414 were for reseals of probate granted elsewhere

	2019	2020	2021	2022	2023
EQUITY DIVISION²²					
Admiralty List					
Filings	3	3	0	0	0
Disposals	2	0	1	1	2
Pending cases at 31 December	1	5	3	1	0
Adoptions List²³					
Filings	224	185	178	159	168
Disposals	226	178	175	161	175
Pending cases at 31 December	60	67	70	68	61
Commercial List					
Filings	171	213	168	147	179
Disposals	180	189	166	171	160
Pending cases at 31 December	221	248	247	230	259
Commercial Arbitration List					
Filings	1	2	2	7	7
Disposals	1	1	3	4	8
Pending cases at 31 December	1	1	0	3	5
Corporations List					
Filings	1,211	651	769	699	855
– Judges' list	205	232	215	185	185
– Registrar's list	1,006	419	554	514	670
Disposals	1,188	759	762	641	913
– Judges' list	251	231	262	211	252
– Registrar's list	937	528	500	430	661
Pending cases at 31 December	372	260	272	346	298
– Judges' list	148	171	157	165	129
– Registrar's list	224	89	115	181	169

²² Statistics for the Equity Division have been extracted from the JusticeLink system, excluding the figures for the Adoptions List, Contentious Probate List and Protective List, which are obtained from manually collated data.

²³ All application types are counted in the Adoptions List, including information applications.

	2019	2020	2021	2022	2023
Equity General List					
Filings	750	829	736	741	720
Disposals	804	831	785	717	674
Pending cases at 31 December	897	923	883	862	801
Protective List					
Filings	153	91	88	102	103
Disposals	122	98	74	113	92
Pending cases at 31 December	55	48	62	47	62
Real Property List					
Filings	382	404	403	314	334
Disposals	366	356	382	325	371
Pending cases at 31 December	333	369	385	397	386
Revenue List					
Filings	14	10	9	11	13
Disposals	22	16	13	8	6
Pending cases at 31 December	18	14	10	13	22
Technology and Construction List					
Filings	178	249	221	195	200
Disposals	145	134	155	161	192
Pending cases at 31 December	266	388	459	504	521
Contentious Probate List					
Filings	310	291	296	348	418
Disposals	308	374	307	337	348
Pending cases at 31 December	257	175	164	176	246

	2019	2020	2021	2022	2023
Family Provision List					
Filings	878	880	872	897	1,064
Disposals	914	886	895	866	914
Pending cases at 31 December	417	412	381	419	592

EQUITY DIVISION TOTALS

Filings	4,275	3,808	3,742	3,620	4,061
Disposals	4,278	3,822	3,718	3,505	3,855
Pending cases at 31 December	2,899	2,910	2,936	3,066	3,253

TIMELINESS- AGE OF PENDING CASES AT 31 DECEMBER²⁴

Number pending (% of total)	National standard ²⁵	2019	2020	2021	2022	2023
Cases within 12 months of age	90%	1,872 (65%)	1,859 (64%)	1,742 (59%)	1,848 (60%)	2,024 (71%)
Cases within 24 months of age	100%	2,499 (86%)	2,444 (84%)	2,415 (82%)	2,493 (81%)	2,649 (84%)

UNCONTESTED PROBATE²⁶

Probate (Grant Applications)

Filings	27,438	26,661	26,663	30,305	30,692
Disposals	25,411	27,845	25,250	25,945	31,767
Pending cases at 31 December	3,529	2,401	3,180	9,108	10,290

²⁴ Statistics exclude uncontested probate matters

²⁵ National standards are derived from the 'backlog' performance indicator within 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. For civil non-appeal cases, all supreme courts in Australia continue to have difficulty achieving the national standards.

²⁶ These statistics include 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.