



Australian Institute of Judicial  
Administration

**Case Management Seminar**

Sydney, 25 February 2005

*Report*



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# Case Management Seminar

## *Report of Proceedings*

### **Background**

The idea for this seminar originated with the Australian Court Administrators' Group (ACAG) and was put to the AIJA by Mr Warwick Soden, Registrar and Chief Executive Officer of the Federal Court of Australia, in his capacity as chair of ACAG. It was envisaged as a revival of the earlier Case Management Seminars run by the AIJA from late 1980s to mid 1990s.

Those seminars brought together a judge (usually the Chief Judge or judge responsible for delay reduction projects or caseload management projects) and a court officer (usually the CEO or Registrar) from all the Australian higher courts. They were thought to provide a very valuable opportunity for the exchange of ideas and discussion of problems experienced by Australian courts in managing their workloads. The emphasis was on system management rather than individual case management procedures.

The AIJA case management seminars fell into abeyance in the mid-1990s. At that time there was a feeling that, with case management procedures well-established in most courts, the original purpose of the seminars had mostly been achieved. It was thought that the discussion of case management issues, although still important, might better be achieved as part of other mainstream education activities.

The proposal to revive the seminars was prompted by a feeling that it was timely to again provide a forum that could enable an exchange of ideas and experiences for those involved in practical day to day activities of case management. It was thought that it would be useful to provide an opportunity not only to learn about each other's successes, but from the failures as well.

It also comes after a decade which has seen the widespread implementation of modern computer case management systems in most courts and tribunals. These systems are resulting in a better capacity to measure the outcomes of various reforms and initiatives.

### **Aims and Objectives**

The aim of the seminar was to enable participants to exchange information and experiences about case management policies and strategies. The AIJA was keen to explore two particular issues, possibly with a view to identifying research activities in the area of case management. They were:

1. The evaluation of case management; and
2. Current Listing Practices.

It was intended that the Seminar would:

1. Focus on practical aspects of measures implemented by courts and tribunals; and
2. Be low cost.

## **Methodology**

### ***Participation***

The following courts and tribunals were invited to send two representatives to the Forum:

- The High Court of Australia;
- The Federal Court, Family Court and Federal Magistrates Court;
- The Supreme Courts of each State and Territory;
- The Courts of Appeal in Victoria, New South Wales, the ACT and Queensland;
- The District Courts and County Court of Victoria;
- The Magistrates or Local Court in each State and Territory;
- The High Court and District Court of New Zealand;
- The Magistrates Courts of Fiji, Papua New Guinea and the Solomon Islands;
- The National Court of Papua New Guinea;
- The Employment Court of New Zealand;
- The Commonwealth Administrative Appeals Tribunal;
- The Family Court of Western Australia;
- The Australian Industrial Relations Commission;
- The Industrial Relations Commission of New South Wales;
- The Land and Environment Court of New South Wales; and
- The NSW Dust Diseases Tribunal.

It was suggested that the two invited representatives consist of a judicial officer and court officer, both with responsibilities in the area of case management.

### ***Summary papers***

Each of the participating courts and tribunals were invited to prepare a background paper including the following information:

- Case Management Initiatives
  - What system of case management (if any) is used in your court?

- At what point in time does case management commence?
- Are there formal case management hearings, or alternatively, is case management conducted on the papers?
- Who conducts case management procedures?
- Is ADR a part of the process, when does it occur and is it compulsory?
- Has there been any evaluation of case management in relation to delay and the cost of litigation?
- What initiatives have been taken in your court over the last twelve months in relation to improving case management?
- What problems, if any, have been experienced in the last twelve months?
- How is listing of cases carried out in your court?
  - Who is responsible for listing?
  - Does listing take place in the course of the case management of the matter?
  - What, typically, is the average time between fixing a matter for hearing and the actual hearing of the matter?
  - What is the adjournment rate in relation to matters fixed?
  - What is the “not reached” rate in relation to matters fixed?
  - What is the settlement rate for all matters commenced?
  - What is the settlement rate in relation to matters fixed:
    - After fixing but before hearing?
    - At the hearing?

The background papers provided were summarised and a copy of the summary provided to all participants. The participants were also provided with the background papers. A copy of the summary is attached to this report (Appendix 1).

## **Agenda**

The agenda for the seminar was structured to encourage participation and discussions, rather than formal presentations. It was assumed that all participants would have read the background papers and the summary. The seminar began with a session in which each jurisdiction was asked to identify its current challenges or initiatives in relation to case management in a short (3 minute) presentation. This was followed by a discussion session on themes arising from those presentations. The afternoon sessions began with discussion of some key issues arising from the background papers. These included:

- ADR;
- Managing to avoid over/under listing;

- Estimating Hearing Times;
- Managing to avoid adjournments;
- Managing with litigants in person;
- Managing the lawyers; and
- Managing expert evidence.

### **Challenges and Initiatives**

#### **Change in Case Management Practices**

A number of courts reported having recently introduced new case management techniques. These varied from court to court, but a common feature appears to be an attempt to provide the legal profession with greater certainty as to trial dates.

For example, in the High Court of New Zealand, new rules provide that a Case Management Conference must be held 75 days after filing and that the trial date must be fixed at such time. Discussion also takes place at that time about timing of a Judicial Settlement Conference.

In another effort to provide greater certainty of trial dates, the Victorian Supreme Court changed its policy last year to send two judges on each country circuit, to ensure that civil work does not simply get left until the end of the criminal sittings of each circuit.

The Supreme Court of the Australian Capital Territory has recently changed its rules in its criminal jurisdiction to require the Director of Public Prosecutions to file an indictment within 21 days from a fixed date upon which the accused first appears before the court and to provide a case statement. The changes are designed to direct greater prosecution attention to the case at an earlier stage with a view to reducing a high number of adjournments.

One particularly interesting experiment is the Children's Cases Project in the Family Court of Australia. This is a move to a less adversarial approach in which the presiding Judge interacts with disputing parties in a less formal setting which seeks to elicit their issues and concerns in a non-adversarial way. An initial evaluation has indicated that it appears to be much more successful in dealing with this difficult area. The Family Court of Western Australia is also considering proposals for a more integrated system to manage children's cases.

#### **Self-represented Litigants**

Difficulties associated with increasing numbers of self-represented litigants (SRLs) were mentioned as a challenge for case management by several jurisdictions. It is a major issue for the High Court of Australia, where SRLs now constitute more than 50% of the volume of Applications for Special Leave to Appeal. At the other end of the scale, magistrates courts also report high volumes of SRLs; the ACT Magistrates Court, for example, reports that over 53% of parties are unrepresented.

In a move to filter out unmeritorious appeals, the High Court's new rules, which came into effect on 1 January 2005, provide that an application by a SRL must now be first considered on the papers and is not served on the

respondent unless directed by the court. The New South Wales Supreme Court also reported a tightening of leave to appeal provisions from lower courts and tribunals.

Courts report that SRLs require greater assistance to focus on the relevant issues in preparing their cases and that this takes up much more time on the part of judicial officers and registry staff. This may not be true in all courts, however; some attendees reported that in their jurisdictions SRLs seem to be better than lawyers at complying with the court's directions!

In dealing with SRLs, courts must ensure that they do not overlook an issue that may cause a real or potential injustice to the unrepresented party. The challenge can be to filter out those claims with potential merit and to avoid taking up excessive amounts of time in the case management process to achieve this.

#### **Computerised Case Management Systems**

A number of courts reported recent installation or completion of new case management systems. These systems aim to ensure that judges and court staff have up to date and relevant information to assist them in managing cases. While undoubtedly successful in most cases, courts also report the need to modify and fine tune systems to make sure that they are producing the data that is required in the form in which it can be most use. Some courts still report difficulties associated with having to grapple with inadequate computer systems in order to produce meaningful statistics.

#### **Influx of Cases**

Several courts and tribunals reported an influx of new cases, or new types of cases, as a result of changes of jurisdiction. These changes often result in the need for the court to consider new case management processes.

For example, the Federal Court of Australia reported an influx of migration cases in the past year. In focusing on ways of disposing of these efficiently the court has used new techniques, such as looking at cases in batches to determine whether there is a substantive issue involved.

#### **Cultural change**

A number of courts reported that one of their significant issues was a need to address cultural issues within the legal profession. It was suggested that these changes are necessary in order to ensure that case management operates successfully.

For example, reports from a significant number of jurisdictions indicate that compliance with court directions by the legal profession is still a challenge. Courts and tribunals reported various strategies to try and address this.

In one court where sufficient resources have been available to spend time in working with the profession and educating them as to the court's requirements, it has resulted in a significant change to the law firm culture.

In the Australian Industrial Relations Commission, the commissioner can call a non-compliance hearing for parties to advise why they have not complied with directions. The Commonwealth Administrative Appeals

Tribunal reported a focus on trying to isolate serial non-compliers and ultimately to have a report brought before the President of the Tribunal.

It was noted that there are particular issues with the defence culture in criminal jurisdiction in some courts, and it is obvious that a defendant who fears they may be going to jail has little incentive to progress speedily to trial!

Several jurisdictions suggested that case management will be most successful if treated by the Court and the profession as a joint enterprise. Some courts and tribunals have already established regular case management forums for the court to meet with the profession and other user groups.

Two jurisdictions are tackling the problem of non-compliance in association with the local profession. After consultation with local practitioners, the Northern Territory Supreme Court has recently introduced a new system in which practitioners are required to file a Litigation Plan on close of pleadings and are then given a listing for hearing in a particular sittings. This system was introduced in an effort to meet the profession's need for earlier hearing dates, so that they have a date to work towards. The Supreme Court of Tasmania has recently established a case management committee comprising representatives from the Court and the various professional associations.

It was suggested that judges need to bear in mind that the profession will be driven by competition and "the bottom line". It is also important the case management procedures are effective both for larger and smaller firms.

Experience in Victoria suggests that solicitors may be happy with improved case management which results in cases settling at an earlier stage, as this will enable them to take on more cases. On the other hand, the Bar may feel in such a situation that they have lost work as a result of case management practices.

Another suggestion was that there was a need to look at the way matters are funded, so that the profession has more incentive to settle matters at an early stage. It was noted that a quick settlement with reasonable remuneration may well be a more attractive proposition for solicitors than a case that proceeds to trial.

One jurisdiction reported that one of its current challenges was a high number of interlocutory matters being brought before the court. This seemed to be largely the result of a young, inexperienced local legal profession.

It was noted that changing the culture which has developed in a court can be an ongoing challenge, which may need to be tackled with a number of measures. The New South Wales Land and Environment Court has recently embarked on such a process with a package of reforms designed to address long-standing problems with delay and cost of hearings in that jurisdiction. They include provision for onsite hearings, reforms in relation to expert evidence, including the use of court-appointed experts, and a requirement to articulate the issues in dispute before the first

callover by filing and serving a statement of issues and statement of basic facts.

#### **Judicial Education**

It was also suggested that cultural change may also be something that needs to be addressed within the judiciary. It was noted that approaches to case management can vary widely between individual judges. One court which has recently experienced a very high turnover of judges and a blow out in the volume of work, highlighted a need for judicial education and judicial leadership on case management.

Courts reported various strategies to tackle this issue. For example, the County Court of Victoria is rotating its judges through its Practice Court. This is exposing judges to interlocutory issues, making them aware of the processes that cases in the court have to go through before they come before them for hearing.

Judicial specialisation is another issue that often comes into play in relation to case management. The Victorian Supreme Court has recently introduced a policy under which judges are encouraged to sit in another division of the court other than the one in which they are assigned, in order to further develop their skills and improve job satisfaction.

The introduction of a rostering system to handle particular types of ‘bulk’ matters was suggested by the Australian Industrial Relations Commission, which has introduced a system in which its members are rostered on a monthly basis to deal with unfair dismissal matters.

It was also suggested that a session on case management should form part of the curriculum at the National Judicial Orientation Course and in any court-specific judicial orientation programmes. Although these could not deal in detail with the specific processes in each court, they could canvass generic issues and approaches. It was also noted that these sessions could also provide a useful opportunity for the courts to get a perspective from new judges, that is, those who have been practitioners more recently.

#### **Long trials**

Several courts reported difficulties associated with long trials (or “mega trials”) taking up large amounts of time and effectively tying up particular courtrooms. Particularly in smaller jurisdictions, the impact of one or two long trials can have a significant effect on overall listing times. There was also a suggestion in some jurisdictions that there is a tendency towards longer trial times for those cases that do proceed to trial, although effective case management procedures may mean that more cases settle before trial.

#### **Use of Technology**

Several courts reported that they have begun experimenting with the use of technology to conduct directions hearings and callovers, and otherwise to assist in the case management process. The New South Wales Land and Environment Court’s and the Federal Court’s eCourt systems both use internet-accessed secure bulletin board and email to handle interlocutory process. Judge Alan Wilson, in the District Court of Queensland, has pioneered the use of similar technology to manage interlocutory proceedings in his court. The success of these initiatives is difficult to

evaluate at this stage, with the take-up rate among the legal profession varying considerably between the various jurisdictions who have introduced this type of technology. Another variable appears to be the enthusiasm of individual judges for the use of technology in the case management process and their willingness to adopt it.

The Australian Industrial Relations Commission reported that increasing budgetary constraints have seen it increase the use of video and tele-conferencing to reduce travel costs. The County Court of Victoria also makes extensive use of video-conferencing in its case management regime.

#### **Changes in Operating Environment**

A number of courts reported changes in their context in which they were conducting case management. For example, the Family Court of Australia and the Federal Magistrates Court are in the process of combining their registry operations. Perth Family Law Magistrates will shortly have their jurisdiction extended to include the jurisdiction of Federal Magistrates.

One court reported that cases are becoming more difficult as a result of the increasing complexity of new legislation. Others reported that the introduction of new rules, for example, in relation to expert evidence, had posed new case management challenges. One State will shortly implement uniform rules across all its jurisdictions.

In another jurisdiction it was reported that investigation had shown that a downturn in court's performance as assessed against its benchmarks for disposal was a result of a change in mix of cases coming before the court. That change had occurred since the formula for benchmark was determined.

#### **Resources**

Several courts reported a need for more resources to devote to case management. It was suggested that this may not necessarily mean more judicial resources; that it can be more effective to employ additional court staff to work on the preparation side, while having a judge to oversee the case management process.

Several courts reported a lack of police, forensic, DPP and legal aid resources, posing difficulties for effective case management in the criminal jurisdiction. For example, cases may have to be adjourned because preparatory work or particular reports have not been completed. The quality of these resources was also an issue in some jurisdictions.

#### **Expert Evidence**

A number of courts reported new initiatives to try and improve the management of expert evidence. For example, in a recent case in the Federal Court's native title jurisdiction, the docket judge directed a conference of anthropological experts. By consent, at the end of conference court staff recorded the areas of agreement and the agreed position of the experts. In the result, the experts effectively agreed on all the major issues, which reduced both the time taken for their evidence at trial and that of other witnesses. The conference also served to focus the parties better on the key issues, which also reduced trial time considerably.

As noted above, the New South Wales Land and Environment Court has recently introduced a number of reforms in relation to the use of expert evidence, including the use of court-appointed experts and provision to take concurrent evidence from experts. The Commonwealth Administrative Appeals Tribunal reported a pilot scheme involving concurrent evidence.

The New South Wales Supreme Court is also examining the use of joint and single expert witness conferences. The court is looking to work with the profession to identify cases that might most benefit from these techniques.

### ***Current issues***

#### **Alternative Dispute Resolution**

The background papers supplied by participating courts and tribunals disclosed that ADR is well established as part of the case management process in civil proceedings in Australia. The only exception to this appears to be in appellate jurisdictions, although it was indicated that mediation would form part of the case management practices in the new Court of Appeal in Western Australia.

Seventeen of the participating courts and tribunals reported that ADR was part of their case management process. Of those, eight reported that their court or tribunal had the power, either generally or in some circumstances, to refer a matter to ADR without the consent of the parties.

There was discussion during the afternoon session at the seminar of the stage at which a matter should be referred to ADR. There were varying views expressed. Some were of the view that there was no point referring a matter to ADR until it was ready for trial. It was suggested that the parties need to be at a point where they are ready and willing to consider compromise and the reality of their situation, rather than being caught up in anger or other emotional reactions.

Others took the view that while timing is important, there was no general rule; that the timing of a successful referral to ADR depends on the individual case. There can be advantages and disadvantages to both early and later referral to ADR, depending on the nature of the case. Sometimes an earlier referral to ADR will work well because the parties have not yet become entrenched in their attitudes and have not invested considerable sums of money in legal costs to get the matter ready for trial. The parties themselves may not yet be engaged in the process, so that ADR may be the first opportunity for them to be confronted directly with the issues.

It was suggested that it may be a better option for a process such as mediation to take place before the matter comes to court at all. It was noted that some jurisdictions now have statutory schemes requiring attempts to settle a matter before proceedings are instituted. This is the case, for example, in relation to personal injury claims in Queensland.

Others suggested that timing is not so important in successful mediation. Rather, the critical factors may be knowledge of the mediation process, willingness to co-operate and an understanding of the benefits.

The question of identifying cases that are suitable for mediation was discussed. Reference was made to the recent report for the AIJA by Associate Professor Kathy Mack, *Court Referral to ADR: Criteria and Research* (2004).

During discussion, some doubts were expressed as to the value of mediation. There is a feeling in some jurisdictions that the mediation process is to some extent being controlled by the local Bar and has become quite expensive. Solicitors are tending to ask for settlement conferences, rather than mediation, to circumvent unproductive mediation.

This led to discussion as to how the court might control the quality of the mediation process. It was noted that practices vary widely between jurisdictions as to whether mediation is conducted by court officers, for example, registrars, or is “out-sourced”, for example, to external mediation services.

The distinction between mediation and judge-conducted settlement conferences was also discussed. The expectation that parties have of the judge in a settlement conference was raised. Do parties want the judge to conduct a “warm and fuzzy” mediation or to provide a practical estimate of what will happen at trial?

Participants also discussed the extent to which mediation could be compatible with the judicial role. There was concern about judges being involved in mediation practices, such as caucusing, which may give rise to apprehended bias. A number of smaller jurisdictions reported that they found it desirable to keep judges away from any role in mediation in order to avoid problems of judges having to disqualify themselves from hearings.

It was noted that it was important to prepare parties for the settlement conference, so that they were able to understand where the other side was coming from and to evaluate the strength and weakness of their respective positions on each issue.

It was suggested that there can be difficulties in having clients present at ADR or settlement conferences.

It was also suggested that the offer of a mini-trial on the main issue can be a useful spur to settlement.

#### **Over/under listing**

Discussion of listing practices revealed that some courts choose to deliberately over-list and others do not. The rationale for over-listing is to ensure that there is always a back up case to fill the court’s time, if a case settles. The problem with over-listing is that it can create uncertainty for lawyers, parties and witnesses as to when their case will actually proceed and create difficulties in ensuring they maintain a state of readiness in case it does.

It was emphasised in discussion on this topic that it is important for the listing officers to keep in touch with practitioners, and obtain their trust, so the court has a better idea of what is likely to happen with settlement of particular cases and is also able to keep some cases as back-up. Some

courts attempt to avoid the dangers of over-listing by requiring the parties to be ready to proceed on the next day as well, so that there is in effect a “2 day window” for the case to be heard.

It was also agreed that in order to make a system of over-listing work, it is necessary to have judges who are willing to take on cases and to have everyone in the court working towards a “zero not reached” target. It was suggested that it can be helpful to calendar judgment-writing time so those undertaking listing know clearly when judges are and are not available.

#### **Estimating of Hearing Time**

In a related discussion, it was noted that while it is desirable to fix a trial date at an early stage, in order to focus the parties on their preparation, it can also be difficult to accurately assess the time required to try a matter at an early stage of its preparation.

While in many courts the process of eliciting an estimate of hearing time from the parties is an informal one, a number of jurisdictions have more formal approaches. The ACT Supreme Court has introduced a questionnaire for parties in its criminal jurisdiction, part of which enquires as to the length of the trial. In civil matters, many courts require a Certificate of Readiness which also requires such an estimate.

In the Victorian Supreme Court, all cases come to the Listing Master for a Directions Hearing. She asks the parties for an estimate of the hearing time and can question them about the accuracy of the estimates.

In long cases provided in that court, the practice is for the parties to exchange a list of witnesses, a brief description of the issues each witness will address and an estimate of the time the witness will take. The other side is required to estimate the time required for cross-examination. Each side estimates their opening and closing times.

That information then enables the court to work out how long the case will take. They generally find that, in those cases, the parties keep relatively close to their estimates. This system is also advantageous for the parties because it enables them to prepare a more accurate estimate of the cost of running the case. As soon as the parties start increasing the hearing estimate from the original estimate they are questioned closely and they know they will lose their hearing date if the increase in time cannot be accommodated by the court.

There was general discussion about the practice regarding the exchange of witness statements before fixing a date for hearing. Some courts expressed concern about witness statements being overly-elaborate and costly to prepare. This makes courts reluctant to order them at an early stage in the proceedings.

Some cynicism was also expressed concerning the true value of witness statements. As one participant put it: “The court wants to hear what the witness has to say, not what the lawyer thinks the witness will say!” It was also suggested that it can be difficult for judges having to read and digest large amounts of written material without an opportunity to see witnesses and the parties.

It was noted that a distinction could be drawn between a full statement of evidence in chief, and a simpler statement in a précis form of the evidence which the witness is expected to give. The latter may be more cost-effective.

The Family Court, which has always operated on a system of exchange of witnesses statements, reported that experience had shown that they were not effective in providing a guide to the time that the witness' evidence would take. Their experience suggested that the key to effective trial management was more about a sensible limitation of the time available, which encourages the parties to focus their efforts.

It was noted that the use of witness statements in contentious matters has led to a further development. More recently, the contents of witness statements are forming the basis for statements of agreed facts. This suggests, to some extent, that the use of written evidentiary material is part of an evolutionary process in Australasian courts.

#### **Evaluation**

A few courts reported that there had been attempts made to evaluate their case management regimes. For example, the Federal Court of Australia has had a study of its individual docket system undertaken and another internal evaluation of that system. The practice of different registries is also reviewed annually for discussion at the judges meeting.

However, several courts reported that new case management initiatives have not been accompanied by an effective evaluation process. It was noted that while systems may be believed to be effective in reducing cost and delay, there is often a lack of information to objectively justify that conclusion.

It was noted that there is often a problem finding time and resources to devote to evaluation. Paradoxically, this may be exacerbated by a tendency for government to seek increasing amounts of information from the courts, often related to the courts' workload and resources.

However, it was generally agreed that evaluation is an area that courts need to give greater attention to in order to be able to put the case for sufficient funding and resources. At least one jurisdiction reported suffering from a perception on the part of government that the courts are wasteful with resources, resulting in government attempting to review their operation or introduce new measures to produce efficiencies.

It was suggested that an effective evaluative study would need to examine the impact of case management on cost, delay and quality of outcomes. It was also suggested that such a study should clearly define the objectives of case management. Objectives may vary between courts. For example, one court may structure its case management system on the assumption that all cases filed will go to trial. Another court may take notice of the fact that most cases will settle before trial and put its case management resources into identifying and dealing with those that will not. Another court may wish to structure its case management system in order to try and achieve earlier settlements.

In jurisdictions that have undertaken evaluations, these evaluations tend mainly to focus on settlement rates. However, it was noted that statistical evaluation on its own may not tell the whole story and, in fact, may be misleading. It was suggested that there is a need to include a qualitative component and a perspective from the profession and clients.

## **Themes and Future Directions**

At the conclusion of the day's proceedings, AIJA Executive Director, Professor Greg Reinhardt identified the following themes that had emerged from the day's discussion. These may serve as the basis for further education and/or research projects by the AIJA or others:

### **1. *The Cost of Case Management***

- The impact of case management on the cost of litigation is a recurring topic, particularly in discussions with the legal profession. It is something that should obviously form part of any evaluation of case management. Two views expressed generally at the seminar were that:
  1. There should not be any significant cost impact if procedures are kept flexible; and
  2. The cost of case management needs to be measured in relation to what is achieved in terms of settlement or overall costs to the parties.

### **2. *Judicial Leadership and administrative support***

- Reports from those jurisdictions attending the seminar indicated that the involvement by the judiciary in the implementation and operation of case management systems appears to be an important factor in their success. Judicial leadership seems to be important both in ensuring that systems develop in a way that maximizes efficient handling of cases by the judiciary and in ensuring that they are accepted (within the court and the profession).
- However, it was also clear that court staff generally constitute the 'engine room' for the operation of case management systems. Several jurisdictions reported that staff also play an increasingly important role in educating the legal profession about case management requirements and that there is a need for more staff to perform these functions.

### **3. *Need to engage the legal profession and other stake-holders***

- Reports at the seminar indicated that several jurisdictions are making greater steps to involve and consult with the legal profession, and other court users, in relation to case management. This seems to be supplanting an earlier philosophy which tended to assume at times that the development and implementation of case management was entirely the prerogative of the courts.

- There also seems to be recognition of a need to make case management ‘user friendly’. The development of concepts such as “Litigation Plans”, for example, enable parties to set out an early stage in a relatively simple format the issues that need to be resolved and the steps that need to be taken to get there.
- It was suggested that any further seminars or forums organised in relation to case management should include user group representatives.

#### **4. *Discovery***

- The process of discovery is an area that may require greater attention in the case management process. Professor Reinhardt suggested that there was a need to turn the mind of litigants towards the process, in terms of what it means and what their expectations are.

#### **5. *Pre-action protocols***

- The development of pre-action protocols was suggested as an area that may require further investigation. Varying views were expressed as to their efficacy and it was suggested that it may be useful to undertake some evaluation, both of the experience in Australia and in the United Kingdom. Such a study could examine their effectiveness in advancing matters and their impact on costs.

#### **6. *Listing of cases***

- Experience at the seminar suggested that the practice of over-listing of cases is not objectionable in principle, as long as parties who are ready to have their cases proceed can be heard. It was noted that courts were introducing new techniques, such as case questionnaires, to try and obtain more accurate estimates of hearing times to assist in accurate listing.

#### **7. *Witness Statements***

- There was some debate at the seminar about the efficacy of witness statements and difficulties associated with their use. The process may be evolving towards greater use of statements of agreed facts.

#### **8. *Targeted Case Management?***

- Another recurring theme in the course of discussions was the extent to which case management was beneficial in all cases. Another area for further research may be the extent to which case management regimes are beneficial in relation to litigation generally, or whether courts should make greater attempts to try and identify cases which need management, bearing in mind that most cases will settle eventually or resolve by way of plea in the criminal jurisdiction.

**9. ADR**

- Discussion at the seminar would appear to indicate that there is a need for more research into alternative dispute resolution in the case management process. Issues which might warrant particular investigation include the optimum timing of ADR in the case management process, and whether it is necessary or potentially beneficial in all types of disputes.

**10. Education**

- It appears from the reports and information exchanged at the seminar that there is a need for greater education in the courts and the legal profession about case management. It was suggested that this might be something that should be directed to the attention of the appropriate professional education bodies.

**11. High Volume Courts**

- It was noted that there may be different case management issues in higher volume courts and there may be benefit in organizing a separate session at another case management seminar to look more particularly at their needs.

## APPENDIX 1

### CASE MANAGEMENT SEMINAR

25 February 2005

### SUMMARY OF COURT & TRIBUNAL RESPONSES

#### ***Case Management Initiatives***

#### What system of case management (if any) is used in your court?

<i>Court</i>	<i>Information supplied</i>
High Court	<ul style="list-style-type: none"> <li>• Directions by Registrar.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Individual docket system – case randomly allocated to particular judge who is responsible for managing it until final disposition.</li> <li>• Specialist panels for areas of law requiring particular expertise.</li> <li>• Judge makes orders about case management/preparation for hearing, monitors compliance, deals with interlocutory issues &amp; ensures hearing dates maintained.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• Applications for Final Orders (main workload) – 6 stages:               <ul style="list-style-type: none"> <li>– <b>Stage 1:</b> Lodgement of Application for Final Orders (often with Application for Interim Orders).</li> <li>– <b>Stage 2:</b> Initial Case Assessment Conference/Directions Hearing, within 8 wks of filing, to assess issues, determine future steps &amp; give directions to progress case. Cases screened for characteristics such as family violence, which may require special steps. Resolution an ancillary but important purpose.</li> <li>– <b>Stage 3:</b> 1 or more mediation or conciliation events. Further directions hearings if required &amp; if not settled, entered for trial.</li> <li>– <b>Stage 4:</b> Determination stage - defining outstanding issues &amp; listing. In high proportion of parenting cases, Family Report ordered. Parties required to file affidavit in relation to evidence to be called at trial.</li> <li>– <b>Stage 5:</b> Case set for pre-trial conference before Deputy Registrar, at which trial date allocated. If non-compliance matter also listed to “Defaulters List” (Judge presides) to enforce.</li> <li>– <b>Stage 6:</b> General pooled list system used for allocation of cases to Judges for hearing, except for cases involving serious allegations of physical abuse.</li> </ul> </li> <li>• Cases involving serious allegations of physical abuse allocated to a judge early &amp;, if necessary, determined by that judge.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• All cases managed - Practice direction provides timetables. Registry officers ensure compliance &amp; vary as required. Matters monitored by Senior Deputy Registrar/Deputy Registrars - can issue directions or list for mention before President/Judge of Appeal. At mention hearing, directions as to management, or, eg, if matter not progressing, dismissed for want of prosecution.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Claims filed in Brisbane - soon &amp; certain trial dates. Practice Direction tracks progress against landmarks &amp; timelines with prescribed interventions up to deeming matter resolved.</li> <li>– Originating applications filed in Brisbane – case management on ad hoc basis when judges seized of particular proceeding.</li> <li>– Case management of claims &amp; originating applications outside of Brisbane on ad hoc basis by judges located at those centres.</li> <li>– Supervised Case List – cases requiring more than 5 days trial or more than normal demand on resources. Regulated by Practice Direction. Regular review by Supervised Case List Judge.</li> <li>– Commercial Case List – Case management on an ad hoc basis by Commercial List Judges, regulated by Practice Direction.</li> </ul> </li> <li>• Criminal - series of review hearings by Criminal Listing Judge on a regular &amp; ad hoc basis (long or complex cases routinely listed before a judge &amp; ad hoc arrangements for case management occur).</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• Civil - hearings before Registrar/Deputy Registrar to ascertain readiness.</li> <li>• Criminal <ul style="list-style-type: none"> <li>– 1st appearance - judge may make orders about management of matter. If committed for trial, accused to complete &amp; lodge questionnaire, DPP to lodge &amp; deliver case statement.</li> <li>– Pre arraignment conference then held at which: <ul style="list-style-type: none"> <li>(a) matters on questionnaire addressed;</li> <li>(b) Registrar will advise available date for trial;</li> <li>(c) parties expected to give firm indication as to length of trial;</li> <li>(d) possibility of reserve trial status canvassed;</li> <li>(e) directions date advised before available date for trial; and</li> <li>(f) date fixed for arraignment of accused.</li> </ul> </li> <li>– If non-compliance, Registrar may refer matter to judge.</li> <li>– At arraignment, if plea of guilty, court fixes a sentence date. Where plea of not guilty, court will: <ul style="list-style-type: none"> <li>(a) allocate date for trial;</li> <li>(b) fix date for pre-trial directions; and</li> <li>(c) remand the accused to the directions date.</li> </ul> </li> <li>– On the directions date the trial judge: <ul style="list-style-type: none"> <li>(a) may proceed with the hearing of any preliminary matters;</li> <li>(b) will confirm the length of the trial; and</li> <li>(c) will deal with any other matters.</li> </ul> </li> </ul> </li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• All civil cases managed - level depends on type &amp; particular profile: <ul style="list-style-type: none"> <li>– Commercial List – intensively judge managed.</li> <li>– Major Torts List – judge managed.</li> <li>– Other specialists lists (Intellectual Property, Taxation Appeals, Valuation &amp; Planning, Building, Corporations) – judge managed.</li> </ul> </li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
	<ul style="list-style-type: none"> <li>– Proceedings commenced by originating motion-managed by Master.</li> <li>• Listing Master reviews all cases commenced by writ not entered into a specialist list. Cases referred to specialist lists or managed by Listing Master. Otherwise, referred to Litigation Support Group.</li> </ul>
NSW Supreme Court	<ul style="list-style-type: none"> <li>• Common Law Division - 3 types of case management: <ul style="list-style-type: none"> <li>– Lists managed by registrars under general supervision of list judges (most matters). General case management rules in practice notes.</li> <li>– Differential Case Management - personal injury &amp; similar matters.</li> <li>– Small number of matters case managed by individual judges.</li> </ul> </li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Civil jurisdiction <ul style="list-style-type: none"> <li>– Within 2 months after filing, directions hearing before Master/Registrar - proceeding categorised &amp; directions given. May be referred to Judge/mediation/settlement conference.</li> <li>– 6 wks after pleadings closed, directions hearing before Master/Registrar - litigation plans examined &amp; directions made. Listed for trial at sittings.</li> <li>– Master/Registrar continue to manage as necessary.</li> </ul> </li> <li>• Criminal jurisdiction - after committal, pre-trial conference before Criminal Registrar, at which specified information provided &amp; date for trial/plea arranged. Prior to trial, pre-trial hearing before Judge.</li> </ul>
TAS Supreme Court	<ul style="list-style-type: none"> <li>• Master system &amp; subsequent directions hearings, at discretion of Court, allocated at end of each directions hearing or on request of party. Directions hearing generally within 14 days of application.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - except for Commercial List, all cases placed on swift or standard track: <ul style="list-style-type: none"> <li>– Swift track - appeals, summary judgment applications, originating applications from statutes, company liquidation &amp; bankruptcy applications. Allocated hearing date on filing except for appeals (allocated case management conference within 15 working days);</li> <li>– Standard track - all others. 1st case management conference within 35 days of filing. 2nd within 75 working days. Hearing date then.</li> </ul> </li> <li>• Criminal - case management dealt with by Practice Note &amp; on ad hoc basis, by Criminal List Judges responsible for various Courts.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Callover before Registrar/Judge (depending on matter type).</li> <li>• Parties required to articulate issues in dispute before 1st callover by filing &amp; serving statement of issues &amp; statement of basic facts &amp; to discuss need for expert evidence.</li> <li>• Directions/Case Management hearings (classes 1 &amp; 2) - parties must to inform Court at 1st callover if matter suitable for case management.</li> <li>• eCourt enables parties in class 1 - 4 matters to obtain hearing dates &amp; adjournments through eCallover facility.</li> </ul>

<b>Court</b>	<b>Information supplied</b>
AAT	<ul style="list-style-type: none"> <li>• Preliminary conference process - clarify issues, identify evidence, explore settlement, prepare for hearing. Typically 2 conferences, 6-10 wks after lodgment &amp; 12-16 wks later.</li> <li>• At conference, timetables set for gathering evidence &amp; exchange of documents. Further conference scheduled, or mediation, or arrangements made for progressing to hearing. Issues arising during pre-hearing stage may be referred to member for directions hearing.</li> <li>• Directions hearing before Tribunal member at any time, requested by parties or on Tribunal's own motion. Directions may include requiring party to lodge further information, provide statement of grounds on which application resisted or statement of matters or contentions upon which reliance placed at hearing.</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• Management of claims driven by medical necessity. Depending on disease pleaded, classified as urgent, priority or ordinary.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Claims &amp; originating applications &amp; appeals filed outside of Brisbane - no case management, except on ad hoc basis.</li> <li>– Appellate.</li> <li>– Case management for appeals filed in Brisbane regulated by Practice Direction.</li> </ul> </li> <li>• Criminal - lengthy criminal matters routinely listed before judge &amp; ad hoc arrangements for case management occur. Other matters reviewed by Criminal Listing Judge on regular &amp; ad hoc basis.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Computerised case management system - reminders sent to parties in default in filing documents as per timetable. If not filed following this, directions hearing before Master set down.</li> <li>– Computerised system monitors actions commenced &amp; no further action taken. Reminders sent &amp; if no action after 2 reminders, matter dismissed for want of prosecution.</li> <li>– Non-personal injury matters set for status hearing before Master once defendant files "Address for Service". Master determines whether or not Settlement Conference before Judge would be beneficial &amp; makes orders to ensure timetable adhered to.</li> <li>– Deputy Registrar, Conference Chairman, manages personal injury cases with status hearing set down following filing of "Address for Service" by defendant.</li> </ul> </li> <li>• Criminal <ul style="list-style-type: none"> <li>– After arraignment, 1 or more Directions Hearings to prepare matter for hearing. 1st directions hearing as soon as possible after 3 wks from arraignment date.</li> <li>– Guilty pleas managed separately.</li> </ul> </li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Series of List Types, each list managed by Judge.</li> <li>– Case automatically dismissed 3 months after expiry period of</li> </ul> </li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
	<p>validity of writ if no action taken.</p> <ul style="list-style-type: none"> <li>– Timetable, including date of trial, drawn up at directions hearing by Judge in Charge of relevant list.</li> <li>– Trial date certainty.</li> <li>– Directions hearing automatically allocated upon filing of notice of appearance.</li> <li>– Circuit directions hearings conducted by judge via video link.</li> <li>– Callover by Registrar about 1 month prior to trial date.</li> </ul> <ul style="list-style-type: none"> <li>• Criminal <ul style="list-style-type: none"> <li>– 6 Judges in crime individually case manage their lists.</li> <li>– Remainder of criminal list judges (18 to 24) in Master list.</li> <li>– Case management principles outlined in Crimes (Criminal Trials) Act 1999 &amp; practice notes to support.</li> </ul> </li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• Cases individually case managed by court, but not through docket system, although complex cases assigned to 1 Judge &amp; a Registrar/Magistrate.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• Different Case Management systems throughout State depending on size of courts &amp; frequency of visits.</li> <li>• Automated case management systems.</li> <li>• In Brisbane - Differentiated Case Management system. Criminal, Civil, Industrial &amp; Coroners courts have separate Case management systems.</li> <li>• Criminal &amp; Civil Practice Directions - appropriate time frames. Fast tracking of committal hearings involving children &amp; intellectually impaired complainants of sexual abuse, case management of hearings for summary offences including review mention dates, video appearances by persons in custody at committal mentions.</li> </ul>
Tas Magistrates Court	<ul style="list-style-type: none"> <li>• Criminal jurisdiction <ul style="list-style-type: none"> <li>– Personal Diary System (Individual dockets).</li> <li>– Contest Mention System.</li> <li>– System of Adjournment Courts.</li> </ul> </li> <li>• Civil jurisdiction <ul style="list-style-type: none"> <li>– Directions hearings &amp; conciliation conferences.</li> </ul> </li> </ul>
WA Magistrates Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Magistrates &amp; Pre Trial Conference Officers issue programming orders on a case-to-basis.</li> <li>– Pre Trial Conferences enable court to ascertain possibility of settlement, what matters in dispute &amp; whether ready for trial.</li> <li>– Perth – If settlement not reached “First Trial Date” issues &amp; “Continuation date(s)” ( usually 6 wks after First Trial Date). First Trial Date - all parties directed to attend &amp; Magistrate attends to questions of jurisdiction &amp; law, pleadings, number of witnesses, undisputed matters &amp; estimated duration of trial.</li> </ul> </li> <li>• Criminal - system of Status Conferences for trials which are listed for</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
	three days or more. Over listing used for short-day trials.
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Magistrate – case management hearings &amp; direction hearings.</li> <li>• Senior deputy registrars – conferencing, informal mediations – civil matters.</li> <li>• Hybrid system – individual docket system for special fixtures &amp; master calendar for general matters. Specialist case lists presided by Magistrates e.g. family violence intervention program list.</li> </ul>

### At what point in time does case management commence?

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
High Court	<ul style="list-style-type: none"> <li>• From filing of initiating process.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• From commencement.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• From filing.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• Before filing, i.e., pre-filing procedures required.</li> <li>• At Case Assessment Conference approx. 6 weeks after filing. If case not suitable for Case Assessment Conference, or in urgent cases, initially managed by Registrar/Magistrate at hearing in General List.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• From filing.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Brisbane Claims - on filing affidavit of service/notice of intention to defend.</li> <li>– Brisbane - originating Applications - At discretion of judge.</li> <li>– Other Centres - at discretion of judge.</li> <li>– Supervised Case List - when matter ordered to be placed in list.</li> <li>– Commercial List - when matter ordered to be placed in list.</li> </ul> </li> <li>• Criminal - at discretion of Trial Judge or Criminal Listing Judge.</li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• Usually after defence filed except where parties apply for admission to specialist list.</li> </ul>
NSW Supreme Court	<ul style="list-style-type: none"> <li>• Common Law division - At first return date.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Callover - usually 6 wks from lodgement.</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Civil - 1<sup>st</sup> directions hearing, 2 months after filing.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - on filing.</li> <li>• Criminal - at criminal callover held on 1st Friday of each month. Cases committed during the previous month listed for callover.</li> </ul>

<i>Court</i>	<i>Information supplied</i>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• Generally, after appearance entered, but for personal injuries matters, case management begins after Certificate of Readiness filed.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Case management for appeals filed in Brisbane commences on filing of notice of appeal.</li> <li>• Criminal - at discretion of Trial Judge or Criminal Listing Judge.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Cases monitored by “Inactive Cases” system from commencement.</li> <li>– Cases managed by electronic Case flow Management system for filing of documents &amp; by virtue of hearing status hearings from first defendant filing Notice of Address for Service – presumably within 21 days of being served with summons.</li> </ul> </li> <li>• Criminal - arraignment is trigger for case flow management procedures.</li> </ul>
AAT	<ul style="list-style-type: none"> <li>• From lodgement.</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• Each new claim listed for a Directions Hearing soon after lodgement. Urgent cases at first available opportunity.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• In criminal matters - from 1st appearance of defendant.</li> <li>• In civil matters - from when a request for a trial date filed.</li> </ul>
TAS Supreme Court	<ul style="list-style-type: none"> <li>• From commencement (except personal injuries cases- brought into case management system at any time at instigation of party or Court).</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil - from filing of writ.</li> <li>• Criminal <ul style="list-style-type: none"> <li>– Individual lists - callover of cases 10 wks out from committal.</li> <li>– Master list - case conference 10 wks out from committal.</li> </ul> </li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Civil - Most civil matters conferenced (form of ADR) by senior deputy registrars, to determine whether can be settled, whether ready for hearing &amp; set down for hearing. Some worker’s compensation matters conferenced, but most set-down in call-over list.</li> <li>• Young people &amp; children in care proceedings matters set down for conference before matter referred to Children’s Court magistrate.</li> <li>• Criminal - case management hearing before a Magistrate.</li> </ul>

**Are there formal case management hearings, or alternatively, is case management conducted on papers?**

<i>Court</i>	<i>Information supplied</i>
High Court	<ul style="list-style-type: none"> <li>• Mostly on papers but provision exists for hearing before Registrar/Justice.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Case management may be conducted through directions hearings, case management conference, eCourt On-line forum &amp; on papers.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
Family Court	<ul style="list-style-type: none"> <li>• Formal hearings &amp; events which typically have various purposes in addition to case management depending upon stage case has reached &amp; its characteristics.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• At formal hearings, but mainly at conferences. Not conducted on papers - parties &amp;/or their legal advisers are present.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• In all but few exceptional cases, management conducted on papers. Where parties do not meet a direction/s given by Deputy Registrar, matter listed for mention before President.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Brisbane Claims - on papers by designated registry officers (individual matters may be referred to judge for particular directions).</li> <li>– Brisbane Originating Applications - at discretion of judge.</li> <li>– Other Centres - at discretion of a judge.</li> <li>– Supervised Case List - formal case management hearings; some conducted on papers.</li> <li>– Commercial List - formal case management hearings; some conducted on papers.</li> <li>– Hearings &amp; orders can be made electronically.</li> </ul> </li> <li>• Criminal - matters reviewed by Trial Judge/Criminal listing Judge from time to time. No case management conducted on papers.</li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• Formal case management hearings in specialist lists, especially Commercial &amp; Corporations Lists. Case management often conducted on papers within LSG. Parties can agree timetable to minimize costs.</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• Formal case management hearings.</li> </ul>
NSW Supreme Court	<ul style="list-style-type: none"> <li>• Formal case management hearings.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Callovers (in-person, telephone &amp; electronic before Registrar or a judge), case management hearings (classes 1-4 before commissioners /judges). No case management conducted on papers.</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Directions hearing or on papers. Directions hearings may be conducted by telephone.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - standard track - 1st case management conference is formal case management hearings conducted by telephone. Subsequent conferences held either by telephone or in person as judicial officer deems appropriate.</li> <li>• Criminal - criminal list callover.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Brisbane appeals - case management generally conducted on papers by designated officers in registry (individual matters may be referred to a judge for particular directions).</li> <li>• Criminal - matters reviewed by Trial Judge/Criminal listing Judge from time to time. No case management conducted on papers.</li> </ul>
SA District	<ul style="list-style-type: none"> <li>• Civil</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
Court	<ul style="list-style-type: none"> <li>– Directions hearing conducted if parties do not file documents in accordance with timetable set down by rules of court. Prior to that, Reminder notices sent to encourage filing of documents.</li> <li>– Where action is filed &amp; no response from defendant &amp; no request for default judgment by plaintiff, 2 notices sent to plaintiff before dismissing action for want of prosecution.</li> <li>• Criminal - Directions Hearings presided over by a Judge are formal case flow management proceedings. Both ODPP &amp; accused must be represented at these hearings.</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Representatives of parties expected to appear at directions hearing.</li> <li>– Orders on papers can be made by consent, but checked by court, not just rubber stamped.</li> <li>– Orders on papers encouraged by provision of standard draft orders on website.</li> </ul> </li> <li>• Criminal – Yes, via callovers, case conferences &amp; directions hearings.</li> </ul>
AAT	<ul style="list-style-type: none"> <li>• Conference processes, not conducted on papers.</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• Directions list conducted on Mondays. Plaintiff's solicitor provides details of Plaintiff's medical condition &amp; prognosis, status of case documentation &amp; expected requirements for specialist &amp; other evidence.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• In Criminal matters at review mention date legal practitioner may appear or can communicate with court by facsimile.</li> <li>• In committal callover matters either legal representative or defendant must appear.</li> <li>• Civil - once request for trial date filed, if Trial to take 2 or more days, magistrate in chambers on application of Registrar can refer to ADR.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>

#### **Who conducts case management procedures?**

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
High Court	<ul style="list-style-type: none"> <li>• Registrar – where an issue arises which is beyond power of a Registrar, a summons for directions heard before single Justice.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Docket judge, or registrar on referral from Docket judge in some cases.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• Mainly by Deputy Registrars. Defaulters Lists usually conducted by Judges.</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• Judges &amp; Master, but on day-to-day basis mainly Registrar/Deputy Registrar.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• Judge where judge management, otherwise applies a Master.</li> </ul>
NSW Supreme Court	<ul style="list-style-type: none"> <li>• Common Law Division - Most matters - registrars under general supervision of list judges. Individual judges in small no. matters.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Registrar/Chief Judge/Senior Commissioner &amp; Commissioners.</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Master or Registrar.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - 1<sup>st</sup> &amp; 2<sup>nd</sup> standard track case management conference conducted by Associate Judges (formerly Masters). Where case assigned to Trial Judge, that Judge/Associate Judge can preside over conference.</li> <li>• Criminal - Criminal List Judge.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Brisbane Appeals - Designated officers in registry.</li> <li>• Criminal Listings - Judge/Trial Judge.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Case Flow Management Clerk in registry does computer monitoring &amp; sends reminder notices.</li> <li>– Masters conduct directions hearings &amp; status hearings in non-personal injury matters. Deputy Registrar conducts status hearings in personal injury cases.</li> </ul> </li> <li>• Criminal - Judge allocated to conduct Directions Hearings.</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Judge in charge of list, assisted by associate &amp; registry staff.</li> <li>– Registrar conducts callover of trials.</li> </ul> </li> <li>• Criminal – Judges.</li> </ul>
AAT	<ul style="list-style-type: none"> <li>• During conference stage, Conference Registrars. Directions Hearings conducted by Tribunal members.</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• President of Tribunal, or in his absence senior Judge present.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• Criminal - Magistrate.</li> <li>• Civil - Registrar or Alternate Dispute Mediation Branch.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Magistrates, special magistrates and senior deputy registrars.</li> </ul>

**Is ADR a part of the process, when does it occur & is it compulsory?**

<i>Court</i>	<i>Information supplied</i>
High Court	<ul style="list-style-type: none"> <li>• No.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Yes, as part of case management process. Not compulsory, but Court may refer matter to mediation without consent of parties.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• Integral - <i>Primary Dispute Resolution</i> (PDR). Compulsory &amp; court annexed. Stage 2 - 1 or more mediation or conciliation events. Mediation conducted principally by court appointed mediators in relation to parenting issues. Conciliation conducted by deputy registrars in relation to property components.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• Yes, it occurs: <ul style="list-style-type: none"> <li>– Prior to commencement through pre filing procedures;</li> <li>– About 6 wks after commencement at Case Assessment Conference;</li> <li>– At Conciliation Conference approx. 12 wks later;</li> <li>– At Pre-Trial Conference about 3 months after that. If children's issues involved, parties must attend at least 1 conference with counsellor/mediator.</li> </ul> </li> <li>• Compulsory, sanctions for non-attendance. Parties may be excused from attendance &amp; not necessarily be required to be in same room.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• Not used in recent years, not compulsory.</li> </ul>
TAS Supreme Court	<ul style="list-style-type: none"> <li>• Yes. Can be &amp; generally is, compelled before case listed for hearing.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Civil - ADR may occur at any time, if ordered by court or parties consent. ADR not compulsory although generally encouraged in appropriate cases. Statutory scheme requires attempt at mediation prior to suing in personal injuries cases.</li> <li>• System of notice of intention to refer cases to appraisal or mediation - or orders made in face of objection (infrequent).</li> <li>• Criminal - no ADR.</li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• Yes, usually prior to trial by way of court direction. Sometimes more than one mediation. Cases also referred to pre-trial conferences.</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• Can be; up to parties if &amp; when to use ADR. Not compulsory.</li> </ul>
NSW Supreme Court	<ul style="list-style-type: none"> <li>• Yes - Common Law Division. Small amount of arbitration conducted &amp; mediation available from registrars or external providers. Judge can order compulsory mediation.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Yes, mediation or neutral evaluation, but not compulsory.</li> <li>• Parties in class 4 matters must inform court at first callover or directions hearing if matter suitable for mediation. Court offers court-appointed mediator plus list of court-approved mediators.</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Civil - Mediation may be ordered at any stage, against wishes of a party, if deemed appropriate.</li> <li>• Criminal - No ADR</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - Rules make provision for Court to assist in negotiating a settlement. Not mandatory &amp; timing discretionary.</li> <li>• Criminal - Not applicable.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Civil - ADR may occur at any time, if ordered by court or parties consent. Not compulsory although generally encouraged in appropriate cases.</li> <li>• Criminal - ADR not part of any case management.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– ADR not compulsory, although mediation scheme available if parties wish. Court can provide a sitting facility &amp; a choice of mediator from an approved panel, but parties pay cost.</li> <li>– Settlement Conference process provides opportunity for parties to discuss issues without prejudice in court environment &amp; attempt to reduce or resolve issues.</li> </ul> </li> <li>• Criminal - no.</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil - Yes, court has power to order parties to attend mediation &amp; is used in most cases.</li> <li>• Criminal - 10 weeks from committal, compulsory case conference bring parties together with aim of narrowing issues or identifying early pleas of guilty.</li> </ul>
AAT	<ul style="list-style-type: none"> <li>• Mediation open, but used infrequently, generally only after failure to settle during conference process. Only with consent of parties &amp; conducted by Tribunal member.</li> <li>• In workers' compensation jurisdiction, conciliation conference may be ordered if application fails to settle during conference process. Compulsory where applicant is represented.</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• Issues &amp; Listing Conferences conducted before Registrar, either before hearing date allocated or shortly before hearing. Not compulsory. Main object to explore settlement &amp; clearly identify matters still in issue.</li> </ul>
WA Magistrates Court	<ul style="list-style-type: none"> <li>• No.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• In Criminal matters - ADR can be part of process. <ul style="list-style-type: none"> <li>– Justices Act s88 - Magistrate can adjourn hearing of a simple offence or breach of duty so it can be subject of a mediation session under Dispute Resolution Centres Act 1990. Not able to make a compulsory order. Matters issued under S 53A of Justices Act may also be submitted matter to mediation under Dispute Resolution Centres Act 1990.</li> </ul> </li> <li>• In Civil matters once request for trial date received estimate of probable length. If Trial is to take 2 days or more, magistrate in chambers on application of Registrar may refer matter for ADR if appropriate. Parties may object &amp; if so, court may require parties or representatives to attend before it.</li> </ul>
ACT Magistrates	<ul style="list-style-type: none"> <li>• Yes, in civil matters.</li> <li>• Not compulsory in criminal matters, although case management</li> </ul>

<i>Court</i>	<i>Information supplied</i>
Court	<p>hearings held by magistrates.</p> <ul style="list-style-type: none"> <li>• Conferencing (a form of ADR) is also conducted by senior deputy registrars.</li> </ul>

**Has there been any evaluation of case management in relation to delay & cost of litigation?**

<i>Court</i>	<i>Information supplied</i>
High Court	<ul style="list-style-type: none"> <li>• Yes, in relation to delay. Evaluation resulted in time limits being included in Rules eg. provision exists for applications for special leave to appeal to be deemed abandoned if time limits not met.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Externally reviewed by ALRC <i>Managing Justice</i> report (2000) &amp; by NSW Law &amp; Justice Foundation (2002). Also an internal review &amp; its operation monitored by Court's Practice Committee.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• No. Court attempting to facilitate ongoing assessment.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• At least quarterly consideration as to whether Performance Indicators being met. Only formal evaluation - an assessment of costs of Columbus Project (cases involving family violence or alleged abuse).</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• Judges review practice direction throughout year.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• No, but discernable impact in reduction of trial waiting time, etc.</li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• No evaluation in relation to delay &amp; cost.</li> <li>• Case management constantly reviewed. December 2004 - Court revised &amp; reissued practice note in relation to Commercial List.</li> </ul>
NSW Supreme Court	<ul style="list-style-type: none"> <li>• Common Law Division - yes, evaluation of Differential Case Management conducted several years ago. Findings inconclusive as to whether it added to cost of litigation. Changes expected to DCM in coming years as it is more structured &amp; inflexible than required.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Extensive client survey completed in 2001 identified strong legal practitioner commitment to transformation of court processes aimed at increasing practitioner &amp; litigant efficiency. Resulted in implementation of eCourt (see above).</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• No formal evaluation.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - none since 23 November 2004 when current scheme came into force.</li> <li>• Criminal - none.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• None.</li> </ul>

<i>Court</i>	<i>Information supplied</i>
SA District Court	<ul style="list-style-type: none"> <li>• Civil - no recent evaluation of system as a whole. Court is required to provide a report on its achievements against published standards to Attorney General's Office twice each year. These figures are also provided to Steering Committee for Review of Governments Services (Productivity Commission) &amp; are reported in Courts Administration Authority's Annual Report.</li> <li>• Criminal - no formal evaluation. However, key stakeholders aware of issues that arise from time to time. These are addressed &amp; system enhanced where necessary.</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil - study by Professor Ann Ireland &amp; others for the NSW Law &amp; Justice Foundation published in 2003. Nothing since then.</li> <li>• Criminal <ul style="list-style-type: none"> <li>– Individual case management currently being evaluated.</li> <li>– Master list under constant evaluation through collection of data. This results in continuous refinement of listing processes.</li> </ul> </li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• No.</li> </ul>
WA Magistrates Court	<ul style="list-style-type: none"> <li>• Criminal - November 2003 - new listings regime introduced in Perth, to enable parties to enter into discussions aimed at narrowing issues or achieving resolution. Under new procedure if a plea of not guilty was entered then matter listed for a Directions Hearing. Abandoned after 12 months because Direction Hearings had little positive effect on reducing fall-out rate for short day trials. Very small percentage of matters settled &amp; only 40% proceeded to trial on allocated trial date. Resulted in under-utilisation of magistrates &amp; contributed to increase in listing delays.</li> <li>• Effectiveness of over-listing will continue to be monitored &amp; revised as needed.</li> <li>• September 1999 Law Reform Commission of WA report <i>Review of Criminal &amp; Civil Justice System in Western Australia</i> acknowledged necessity of more effective case flow management system. Based on findings &amp; recommendations a new listings regime is being developed, evaluated &amp; revised as necessary.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• No.</li> </ul>

**What initiatives have been taken in your court over last twelve months in relation to improving case management?**

<i>Court</i>	<i>Information supplied</i>
High Court	<ul style="list-style-type: none"> <li>• Rules of Court completely re-written.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Implementation of new computerised case management system, Casetrack, which provides additional functionality &amp; greater support.</li> <li>• Special arrangements to deal with 2,300 migration cases remitted by</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
	<p>High Court between Feb 2003 &amp; June 2004.</p> <ul style="list-style-type: none"> <li>• Implementation of new procedures to streamline management of appeals from Federal Magistrates Court.</li> <li>• Strategies for management of native title cases e.g. regional case management conferences, hearing of “early evidence”, use of early neutral evaluation &amp; compulsory conferences.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• New Rules of Court in March 2004, require parties to undertake pre-action procedures to make genuine attempts to resolve disputes before filing &amp; to make proper disclosure of relevant information. Have resulted in significant drop in number of matters filed.</li> <li>• New Rules of Court make provision for parties to confer and agree on appointment of single expert witness.</li> <li>• Changes proposed by Government - will be compulsory for disputing parties to undergo mediation <i>before</i> filing. Focus of court will increasingly be on defining issues &amp; preparation of cases for trial rather than primary resolution by mediation.</li> <li>• <i>Children’s Cases Project</i> pilot - in initial determination event, judge interacts with disputing parties in less formal setting to elicit issues &amp; concerns in non adversarial way. Judgements made by judge as to what issues are material &amp; require formal evidence. Parties sworn &amp; interactions &amp; answers to judge’s questions recorded as evidence. If not settled after 1 or 2 such events, proceed to formal hearing of outstanding issues. Presiding judge has significant say in evidence called. Pilot being conducted with consent of parties but government considering legislation to support more widespread introduction. Judge becomes involved in case much earlier &amp; cases will be part of judge’s individual docket.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• Changes to Practice direction to come into effect shortly: <ul style="list-style-type: none"> <li>– Appellant’s draft index to be provided at same time as outline – to help reduce cost &amp; focus parties more directly on issues.</li> <li>– Civil applications for leave to appeal - applicant required to include detail of point of appeal (eg. specific error of law).</li> </ul> </li> <li>• Reorganisation of registry processes. Each stream (Civil &amp; Criminal) now managed by own Deputy Registrar. Other registry positions brought inline.</li> <li>• Minor updates to computer system implemented.</li> <li>• Appellants now prepare own Record Books.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Consolidation period.</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• New Criminal Case Management system from 31 December 2004 (summarized above).</li> </ul>
NSW Supreme Court	<ul style="list-style-type: none"> <li>• Common Law Division - Single registrar now conducts all Division lists, bar one, sitting each day so litigants have more flexibility in bringing matters before them. Closer working relationships between registrar &amp; list judges. Matters regularly referred to list judge when unsatisfactory progress. Has resulted in more consistent application of</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
	case management & better progress of new matters through lists.
NT Supreme Court	<ul style="list-style-type: none"> <li>• System recently improved by holding pre-trial conferences before arraignment &amp; listing up to 3 trials for same dates.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• To reduce costs &amp; ensure court has benefit of evidence from person who is not engaged by only one party. Has adopted procedures which provide for it to appoint experts &amp; new practice directions.</li> <li>• Court has adopted Part 39 of Supreme Court Rules 1970, which makes provision for Court to appoint expert to inquire into &amp; report on any question in proceedings.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - inquiry &amp; work on completion of national roster to maintain integrity of trial dates fixed at second conference.</li> <li>• Criminal - new process in Christchurch High Court &amp; Southern Circuit as soon as there is a matter within the jurisdiction District Court advises High Court. Early conference held with counsel &amp; where not guilty plea indicated trial date pencilled in. Progress towards depositions monitored in association with District Court staff &amp; where difficulties arise List Judge will intervene with Executive Judge of the lower court to speed up process. Has led to dramatic decrease in delay &amp; in compliance with case management standards.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• None.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil - non-contentious E-application scheme allows parties to seek ex parte/consent orders electronically. Saves solicitors &amp; court time.</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• None.</li> </ul>
AAT	<ul style="list-style-type: none"> <li>• Development of listing &amp; adjournment hearing policy to ensure that matters listed for hearing proceed on allocated day(s).</li> <li>• Implementation of system to address non-compliance with legislative timeframes &amp; or Tribunal requirements.</li> <li>• Review of General Practice Direction - first stage involving an examination of practice &amp; procedure in workers' compensation jurisdiction. Aims to tailor procedures to needs of particular jurisdictions, giving parties clearer expectations of their responsibilities, Tribunal procedures &amp; general timeframes.</li> <li>• Implementation of duty lawyer service in NSW, VIC &amp; QLD registries aimed at promoting early settlement, increasing client satisfaction &amp; reducing number of self-represented applicants.</li> <li>• Implementation of pilots in compensation jurisdiction to improve opportunities for settlement &amp; timely finalisation of applications.</li> <li>• Continuation of concurrent evidence pilot - potential benefit of narrowing issues in dispute &amp; reducing hearing time.</li> <li>• Development of draft national constitution guidelines to encourage consistency in approach &amp; improve transparency of operations.</li> <li>• Replacement of computerised case management system in 2005-06.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• Fast tracking cases where Children &amp; Intellectually impaired complainants of sexual abuse to give evidence at committal.</li> <li>• Meetings held with DPP, Legal Aid, Police &amp; other court users over last year to improve case management of criminal courts in Brisbane.</li> </ul>
TAS Supreme Court	<ul style="list-style-type: none"> <li>• Establishment of case management committee comprising representatives from court &amp; various professional associations. It is considered that case management will be most successful if treated by court &amp; profession as a joint enterprise.</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil - creation of new list in response to need for earlier hearings for serious injury applications.</li> <li>• Criminal <ul style="list-style-type: none"> <li>– Implementation of new listing regime for 2004: <ul style="list-style-type: none"> <li>(a) increased no. of trials listed from 12 to 20 per week;</li> <li>(b) Chief Judge to have more active role in managing criminal list.</li> </ul> </li> <li>– Development of new listing regime for 2005: <ul style="list-style-type: none"> <li>(a) currently all criminal trials listed to begin on Monday. In 2005 four trials will be listed on each day of week;</li> <li>(b) under current listing regime only 85% of available trial courts per week used (all trials listed on a Monday &amp; as week progresses more pleas &amp; appeals listed as trials finish as court rooms become available);</li> <li>(c) under 2005 regime 90% of available trial courts will be using only 18 to 19 of available 21 trial courts through even distribution of listing trials throughout week.</li> </ul> </li> </ul> </li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• Most of completely revised Rules of Family Court of Australia, introduced in March 2004, also apply to this court.</li> <li>• Last 2-3 years, many cases involving family violence or alleged abuse dealt with through Columbus Project. This entailed involvement of counsellors/mediators &amp; Registrars/Magistrates in co-conferencing, with funding made available for child representatives in all cases &amp; active involvement from Department for Community Development &amp; outside agencies. As a result of its success this approach has continued in all suitable cases.</li> <li>• July 2004 – commencement of Case Assessment Conference system.</li> <li>• Recently one caseflow officer (listings/orders) has been assigned to each Registrar/Magistrate.</li> </ul>
WA Magistrates Court	<ul style="list-style-type: none"> <li>• Magistrates Court Act 2004 comes into on 1 May 2005 &amp; will introduce number of legislative changes that will change case management &amp; listing procedures. Many of these will be by way of Rules of Court which have yet to be drafted.</li> <li>• New initiatives continually being developed with intention of assisting Court in obtaining information relevant to likelihood of a matter proceeding &amp; estimates of anticipated duration of a trial.</li> <li>• Magistrates' Liaison Committee established as forum for stakeholders to raise issues or provide comments in relation to listings initiatives.</li> </ul>

<i>Court</i>	<i>Information supplied</i>
	<ul style="list-style-type: none"> <li>• Appointment of Case Management Officer within Criminal Listings to maintain liaison with legal profession &amp; litigants to ensure that matters listed for hearing will proceed to trial. Where matters are not to proceed to trial arrangements can then be made to list further trials on available dates.</li> <li>• Checklist: Case Management on papers - new fact sheets have been developed for court files to assist with gathering of information on a range of issues, including: <ul style="list-style-type: none"> <li>– number &amp; type of witnesses, estimate of duration of trial;</li> <li>– court Amenities i.e. security requirements, video link up facilities;</li> <li>– services i.e. interpreters, child witness services;</li> <li>– disclosure &amp; facts that have been agreed.</li> </ul> </li> <li>• In order to assist with efficient listing methods, the checklist invites parties to answer questions relating to various issues so that accurate estimates of hearing duration may be obtained.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Running lists before magistrates in small claims and civil matters. Senior deputy registrars also conference these matters prior, during or after running list, if required.</li> </ul>

**What problems, if any, have been experienced in the last twelve months?**

<i>Court</i>	<i>Information supplied</i>
High Court	<ul style="list-style-type: none"> <li>• Continued growth of self-represented litigants &amp; associated delays in case management which arise from this.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Main challenges <ul style="list-style-type: none"> <li>– Management of heavy workload in migration jurisdiction – 1st instance &amp; appeal; &amp;</li> <li>– Implementing new case management system.</li> </ul> </li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• Ongoing-keeping up with workload &amp; reducing backlog. Small gains over past 12 months.</li> <li>• Enforcement of compliance with case management directions.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• Occasional unexpected delays as result of illness of registrars/magistrates.</li> <li>• No. of self-represented litigants continues to increase - approximately 40% of parties at all stages.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• Principle issue is compliance with directions, which vary. Tends to increase when more liberal extensions are granted for timetables.</li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• Need for more judges &amp; masters to provide more extensive management of cases.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Civil <ul style="list-style-type: none"> <li>– Failure by profession to observe timetables, to prepare for trial on designated dates &amp; late settlements.</li> <li>– Brisbane Claims -Time consuming &amp; resource intensive due to number of notices generated by system &amp; responses received from solicitors and litigants.</li> </ul> </li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• None.</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• Minority of practitioners who do not comply with interlocutory orders from Directions Hearing leading to greater review of timetable progress than otherwise necessary.</li> </ul>
NSW Supreme Court	<ul style="list-style-type: none"> <li>• Common Law Division - still difficult to progress older matters in list. Much easier to commence a new matter on case management path &amp; have it progress to hearing than to progress matter that has been delayed.</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• No remarkable difficulties.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - perception that compliance &amp; education of judicial officers in scheme of new Rules need improvement.</li> <li>• Criminal <ul style="list-style-type: none"> <li>– Problems continue to be experienced in the delay from charge to depositions.</li> <li>– Considerable delays with the prosecution in a number of areas. These include discovery and problems with obtaining forensic reports from ESR. Meetings regularly with Crown, police, representatives of defence bar, legal services &amp; ESR have led to decrease in problem, but still exists to a significant degree.</li> </ul> </li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Brisbane Appeals: time consuming &amp; resource intensive due to number of notices generated by system &amp; responses received from solicitors and litigants.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil - inability to achieve disposal outcomes close to its published standards.</li> <li>• Criminal <ul style="list-style-type: none"> <li>– Supreme Court &amp; District Court share courtroom resources. 10 Courts that can be readily used for jury trial work. 1 additional court that is not ideal, but could be used if necessary. This makes managing trial workload quite difficult &amp; over last year or two there has been increase in number of trials not reached.</li> <li>– 50% increase in lodgements over last 5 years as Government has increased penalties for offences which had previously been heard in Magistrates Courts. This has resulted in lengthy delay in listing matters for trial.</li> <li>– Number of days taken for trials increasing, again placing pressure on Court's ability to list trials in a timely fashion.</li> </ul> </li> </ul>

<i><b>Court</b></i>	<i><b>Information supplied</b></i>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil - fluctuating workload due to changes in legislation regarding public liability &amp; medical negligence.</li> <li>• Criminal <ul style="list-style-type: none"> <li>– Further development of reports &amp; statistics from new Case &amp; Listing Management System (CLMS).</li> <li>– Reduction of Judge numbers.</li> </ul> </li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• Human error by clerks &amp; magistrates.</li> <li>• Police &amp; practitioners not adhering to practice directions e.g. police not providing statements of witnesses to practitioners &amp; practitioners not taking proper instructions or not having certificates of readiness signed by callover date.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Running lists are intensive. Re-organising resources for running lists challenging. Progressive implementation of key performance indicators. Review of listing in Court being undertaken.</li> </ul>

### ***How is listing of cases carried out in your court?***

#### **Who is responsible for listing?**

<i><b>Court</b></i>	<i><b>Information supplied</b></i>
High Court	<ul style="list-style-type: none"> <li>• Chief Justice, in consultation with Senior Registrar.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Judges allocated hearing dates for matters in own dockets;</li> <li>• Matters dealt with by registrars are listed by registry;</li> <li>• Full Court sittings are fixed each year.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• In each registry - designated coordinating judge/s &amp; case management judge, sets listing practices, subject to policies determined by national Case Management Executive. Deputy Chief Justice oversees case management.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• Most cases listed by Registrar/Magistrate at Pre-trial conference. However, cases are also listed by judges. List judge has overall responsibility for Judges' lists.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• Senior Deputy Registrar under guidance of President.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Designated listing manager in registry in consultation with designated Callover/Supervised Case List/Commercial List/Criminal listing/Trial Judge.</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• Registrar and Deputy Registrar.</li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• Civil - Listing Master, in consultation with specialist list judges, other than Commercial &amp; Corporations List listing which is carried out by judge in charge.</li> </ul>
NSW Supreme Court	<ul style="list-style-type: none"> <li>• Common Law Division - single judge, sitting as Common Law list judge.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Matters listed for Callover by client services staff. Listings for hearing primarily by Registrar, then Chief Judge &amp; Senior Commissioner allocate judge or commissioner to hear matter.</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Civil - 2 months before sittings - call over before judge, who allocates dates for hearing &amp; makes necessary directions.</li> <li>• Criminal - Registrar &amp; Criminal Registrar responsible for listing, dates confirmed by a Judge.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Formal notification by Registrar. Fixing of date of hearing, completed at 2nd conference by judicial officer presiding &amp; with counsel's input.</li> <li>• Criminal - Criminal List Judge in consultation with criminal case manager.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Listing manager in registry in consultation with designated Callover/Criminal listing/trial judge.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• Criminal matters - electronic diaries used in listing most matters for trial. List clerk will initially list matters for mention. In Brisbane if matter to proceed more than 3 days, both parties must send written reasons to Chief Magistrate or Deputy Chief Magistrate. If sufficient reasons given, matter listed for period they consider appropriate.</li> <li>• Civil matters - list clerk on dates provided by Deputy Chief Magistrate.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil - Master assesses when matter is ready for trial &amp; refers it to listing appointment presided over by Supervisor, Registry Services, for allocation of trial date.</li> <li>• Criminal - Judge conducting final Directions Hearing in consultation with Listing Officer from Criminal Registry is responsible for listing trials.</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil - Judge in charge in conjunction with registry staff.</li> <li>• Criminal - Criminal listings under direction of Chief Judge &amp; Registrar.</li> </ul>
AAT	<ul style="list-style-type: none"> <li>• Listing Coordinator in each registry with assistance of District Registrar.</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• Computerised case management system.</li> </ul>
WA Magistrates Court	<ul style="list-style-type: none"> <li>• Chief Magistrate &amp; Courts Listing Coordinator.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Chief Magistrate &amp; Listing Clerk.</li> </ul>

**Does listing take place in course of case management of matter?**

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
High Court	<ul style="list-style-type: none"> <li>• No.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• Dates allocated for civil &amp; crime whilst appeal progressing through preparation steps. Dates often allocated before final case management step (provision of record book). Sometimes time from record book provision to hearing only few weeks.</li> </ul>
NSW Supreme Court	<ul style="list-style-type: none"> <li>• Sometimes matter not completely ready for hearing when fixed (generally where parties have record of meeting case management timetable).</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Yes at Callover before Registrar or Judge.</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Civil – only in Supervised Case List &amp; Commercial List</li> <li>• Criminal – Yes.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Yes, in Brisbane appeals &amp; criminal jurisdiction. Other jurisdictions, not applicable.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil – Yes.</li> <li>• Criminal <ul style="list-style-type: none"> <li>– Plea dates given at committal.</li> <li>– Not guilty &amp; reserved given case conference dates, trial dates given during case management in case conferences.</li> </ul> </li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• In criminal matters only.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Yes, criminal matters are set down for case management hearings. Some civil matters are set down for direction hearings.</li> </ul>

**What, typically, is the average time between fixing a matter for hearing & the actual hearing of matter?**

<i>Court</i>	<i>Information supplied</i>
Federal Court	<ul style="list-style-type: none"> <li>• Not available.</li> </ul>
High Court	<ul style="list-style-type: none"> <li>• Varies according to type of matter: <ul style="list-style-type: none"> <li>– civil special leave applications - 76% heard within 6 months;</li> <li>– civil appeals - 81% heard within 3 months;</li> <li>– criminal special leave applications - 83% heard within 6 months;</li> <li>– criminal appeals - 77% heard within 3 months;</li> <li>– constitutional matters - 100% are heard within 3 months;</li> <li>– electoral petitions - 100% heard within 3 months;</li> <li>– original jurisdiction generally - 100% heard within 3 months.</li> </ul> </li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• Standard is 4 – 8 weeks - national average presently 12 weeks.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• 8 – 10 weeks.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• Civil appeals – 8 – 10 weeks.</li> <li>• Civil applications – 4 – 6 weeks.</li> <li>• Criminal appeals &amp; applications – 4 – 6 weeks.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Civil - approximately 2 – 3 months.</li> <li>• Criminal - approximately 3 – 6 months.</li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• Varies depending upon nature of proceeding e.g. appeals from lower courts or tribunals to trial division usually determined within 2 – 3 months of fixing. Other proceedings, not in a specialist list, tend to be fixed 6 months in advance of hearing.</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• Personal Injury matters: 8 – 12 weeks.</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Civil - depends upon time required to prepare. In most cases about 6 months.</li> <li>• Criminal - approximately six months.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Approximately 6 – 8 weeks, or sooner if required by parties.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - no stats available.</li> <li>• Criminal – 6 – 9 months from committal.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• For all civil matters time is approximately 1 – 3 months.</li> <li>• For all criminal matters time is approximately 3 – 6 months.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil - for matters less than 10 days, trial date is generally 4 – 5 months ahead &amp; for matters 10 days or longer, 5 – 6 months ahead.</li> <li>• Criminal - generally about 10 months but can vary due to circumstances of case, eg. long trial (10 days or more), a vulnerable witness involved.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil - approx 7 months, 5 months for Workcover cases.</li> <li>• Criminal <ul style="list-style-type: none"> <li>– For pleas of guilty up to ten weeks.</li> <li>– For trial 3 to 4 months.</li> </ul> </li> </ul>
AAT	<ul style="list-style-type: none"> <li>• Not available.</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• If matter urgent category it is not unusual for it to be listed for Directions Hearing on Monday following lodgment &amp; for all other matters to be listed within a month of lodgment.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• In Brisbane - Summary Trials &amp; Committals approximately 9 weeks to hearing.</li> <li>• Industrial trials (including Workcover appeals) - 3 months to hearing &amp; Civil matters - approximately 10 wks from listing to hearing.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Criminal - approx 10 wks.</li> <li>• Civil - conducting running lists–next hearing matters to be dealt with in April 2005 (not including care, protection and workers' compensation matters).</li> </ul>

#### **What is the adjournment rate in relation to matters fixed?**

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
High Court	<ul style="list-style-type: none"> <li>• Very low - estimated to be less than 0.25%.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Not available.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• Relatively satisfactory.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• Minimal.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• Exact figures not available, but less than a few percent.</li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• Varies, but low.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Civil - exact figures not available, less than a few percent.</li> <li>• Criminal - exact figures not available, less than about 10%.</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Criminal - about 30% of trials are adjourned &amp; about 10% of trials listed turn into pleas.</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• 22%.</li> </ul>
TAS Supreme Court	<ul style="list-style-type: none"> <li>• Few adjournments.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Not available - estimated at 5-10%.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - no stats available – perception that rate is low.</li> <li>• Criminal - less than 10%.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
QLD District Court	<ul style="list-style-type: none"> <li>Exact figures not available, but less than a few per cent in civil &amp; less than 10% in criminal.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>Civil - based on 2004 figures, approximately 14%.</li> <li>Criminal - including matters taken out of list for various reasons &amp; those adjourned, about 23% of matters are removed from list after trial dates are allocated.</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>Civil <ul style="list-style-type: none"> <li>No adjournment by consent, applications either by judge who fixed matter, or practice court.</li> <li>Trial dates are vacated if setting down fees not paid.</li> <li>35%.</li> </ul> </li> <li>Criminal <ul style="list-style-type: none"> <li>Minimal for pleas.</li> <li>30-35% for trials.</li> </ul> </li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>Adjournments not applicable as parties expected to comply with agreed timetable. Tribunal maintains a “not ready” list for matters that are no longer urgent, eg. death of plaintiff.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>Criminal - approx 25% matters are adjourned (for further case management hearing or mention).</li> </ul>

#### What is the “not reached” rate in relation to matters fixed?

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
High Court	<ul style="list-style-type: none"> <li>Nil.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>
Family court	<ul style="list-style-type: none"> <li>Varies significantly from registry to registry &amp; over time. Court tries to minimise.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>Cases listed on rolling list, which rolls both vertically &amp; horizontally, so case may be moved to another Judge at short notice. Quite a number of cases have fixed dates &amp; these are always complied with.</li> <li>Majority of non-fixed cases commence on due date, but not unusual for cases to commence 1-2 days late. Rare for cases not to be reached during listing month.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>Nil.</li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>Nil for 2004.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>Exact figures not available, less than few percent.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>Nil.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Civil – nil.</li> <li>• Criminal – rarely.</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• 28%.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil – few.</li> <li>• Criminal – less than 15%.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Exact figures not available; less than few percent.</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• None.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• Criminal - approximately 65% of matters set for hearing do not go to trial. Includes matters that prosecution offer no evidence on, pleas of guilty &amp; adjournments (approximately 60%).</li> <li>• Civil - approximately 30% get adjourned at hearing date.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• Approximately 0.5% in both criminal &amp; civil.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil - approximately 2% (based on 2004 figures).</li> <li>• Criminal – approx. 10%.</li> </ul>
TAS Supreme Court	<ul style="list-style-type: none"> <li>• Very few matters not reached.</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil - less than 1%.</li> <li>• Criminal - 5%.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Negligible.</li> </ul>

#### **What is the settlement rate for all matters commenced?**

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
High Court	<ul style="list-style-type: none"> <li>• Estimated to be approximately 5% or less.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Not available.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• 36% of cases enter determination phase, 22% reach pre-trial conference &amp; are granted a trial date; about 12% -13% reach the day of trial &amp; about 6% are tried to judgment.</li> </ul>
WA Family Court	<ul style="list-style-type: none"> <li>• About 95%.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• For 2004 – Civil 19.8% &amp; crime 23.6%.</li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• Settlement rate for matters fixed varies depending upon particular list. Settlement rate for 2004 was 34% excluding matters in Commercial &amp; Corporations Lists.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Civil - about 30%.</li> <li>• Criminal - about 60%.</li> </ul>
ACT Supreme Court	<ul style="list-style-type: none"> <li>• 64% in total.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Pre hearing settlement is approximately 48-50% of all matters.</li> </ul>
NT Supreme Court	<ul style="list-style-type: none"> <li>• Estimated that 90% settle prior to trial.</li> </ul>
TAS Supreme Court	<ul style="list-style-type: none"> <li>• Most cases settle before listing.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - no statistics available – perception that in excess of 75%.</li> <li>• Criminal - not relevant but plagued by late guilty pleas.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Civil - about 30% of cases proceed to trial.</li> <li>• Appeals - about 80% proceed to hearing.</li> <li>• Number of criminal matters that proceed to a trial is about 60%.</li> </ul>
VIC County Court	<ul style="list-style-type: none"> <li>• Civil - 84%.</li> <li>• Criminal - 39% of all committals pleaded guilty in 2003/4.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil - approximately 90%.</li> <li>• Criminal - not applicable.</li> </ul>
AAT	<ul style="list-style-type: none"> <li>• 2003-04 financial year, 81% of applications finalised without hearing (70% of these were negotiated settlements).</li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• Around 95%.</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• Not known.</li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Approx 85% civil matters (not including protection orders and workers' compensation matters).</li> </ul>

**What is settlement rate in relation to matters fixed:**

- after fixing but before hearing?
- at hearing?

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
High Court	<ul style="list-style-type: none"> <li>• Estimated to be 4% or less.</li> <li>• Estimated to be 1% or less.</li> </ul>
Federal Court	<ul style="list-style-type: none"> <li>• Not available.</li> </ul>
Family Court	<ul style="list-style-type: none"> <li>• 36% of cases enter determination phase, 22% reach pre-trial conference &amp; are granted a trial date; about 12% -13% reach the day of trial &amp; about 6% are tried to judgment.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>
WA Family Court	<ul style="list-style-type: none"> <li>• Probably about a third.</li> <li>• Many cases settle on first day of trial.</li> <li>• In year to 30 June 2004, number of cases proceeding to judgment was only 32% of number of cases listed for trial. This would have been almost always because they settled.</li> </ul>
QLD Court of Appeal	<ul style="list-style-type: none"> <li>• Not available.</li> </ul>
QLD Supreme Court	<ul style="list-style-type: none"> <li>• Before hearing: <ul style="list-style-type: none"> <li>– civil - approximately 30%.</li> <li>– criminal - matters where plea of guilty is indicated after date fixed for hearing - approximately 30%.</li> </ul> </li> <li>• At hearing: <ul style="list-style-type: none"> <li>– civil - approximately 15%.</li> <li>– criminal - matters where plea of guilty is indicated at hearing - approximately 15%.</li> </ul> </li> </ul>
VIC Supreme Court	<ul style="list-style-type: none"> <li>• Not available without further research.</li> </ul>
NSW Land & Environment Court	<ul style="list-style-type: none"> <li>• Not available – est 10%.</li> <li>• Not available – est 10%.</li> </ul>
NZ High Court	<ul style="list-style-type: none"> <li>• Civil - suspect that it is relatively high.</li> <li>• Criminal - not applicable.</li> </ul>
QLD District Court	<ul style="list-style-type: none"> <li>• Before hearing: <ul style="list-style-type: none"> <li>– civil matters - approximately 60%.</li> <li>– appeals - no figures available.</li> <li>– criminal matters where plea of guilty indicated after a date fixed for hearing - approximately 30%.</li> </ul> </li> <li>• At hearing: <ul style="list-style-type: none"> <li>– civil matters - approximately 10%.</li> <li>– appeals - no figures available.</li> <li>– criminal matters where a plea of guilty is indicated at hearing - approximately 15%.</li> </ul> </li> </ul>
NSW Dust Diseases Tribunal	<ul style="list-style-type: none"> <li>• Around 60%.</li> <li>• Around 35% (frequently after Plaintiff has given evidence as to exposure at commencement of hearing).</li> </ul>
QLD Magistrates Court	<ul style="list-style-type: none"> <li>• Summary matters - approximately 40% of matters are adjourned on review mention date. Pleas of guilty &amp; prosecution offering no evidence account for approximately 40% of those.</li> <li>• In all other matters – not known.</li> </ul>
SA District Court	<ul style="list-style-type: none"> <li>• Civil (based on 2004 figures): <ul style="list-style-type: none"> <li>– 50%.</li> <li>– 10%.</li> </ul> </li> <li>• Criminal – not applicable.</li> </ul>

<b><i>Court</i></b>	<b><i>Information supplied</i></b>	
VIC County Court	<ul style="list-style-type: none"> <li>• Civil               <ul style="list-style-type: none"> <li>– 37%.</li> <li>– 7%.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Criminal               <ul style="list-style-type: none"> <li>– 8.5%.</li> <li>– 30.5%.</li> </ul> </li> </ul>
ACT Magistrates Court	<ul style="list-style-type: none"> <li>• Approximately 25% of civil matters (not including protection orders and worker’s compensation matters).</li> <li>• Approximately 5% civil matters (not including protection orders and worker’s compensation matters).</li> </ul>	