

Service 2 – Scheme services – Resolution of disputes

The Dispute Resolution Directorate (DRD) is established pursuant to section 278 of the Act and operates under its own constitution (section 280). The DRD hears and determines disputes between parties in the workers' compensation system. It processes the documentation submitted by parties in relation to statutory disputes and common law claims. It also registers agreements and deeds for workers who have settled their workers' compensation claims after checking their agreements and deeds for statutory compliance, including, where appropriate, the adequacy of the amount.

The main objectives of the DRD are to:

- provide a fair and cost-effective system for the resolution of disputes
- reduce administrative costs across the workers' compensation system
- provide a dispute resolution system that:
 1. is timely and ensures workers' entitlements are paid promptly
 2. is accessible, approachable and professional
 3. is effective in settling matters
 4. leads to durable agreements between the parties
- establish effective communication and liaison with interested parties, concerning the role of the DRD.

The DRD comprises a Commissioner, Director, arbitrators and administrative support staff. Arbitrators have responsibility to facilitate dispute resolution through teleconferences, conciliation conferences and arbitration hearings.

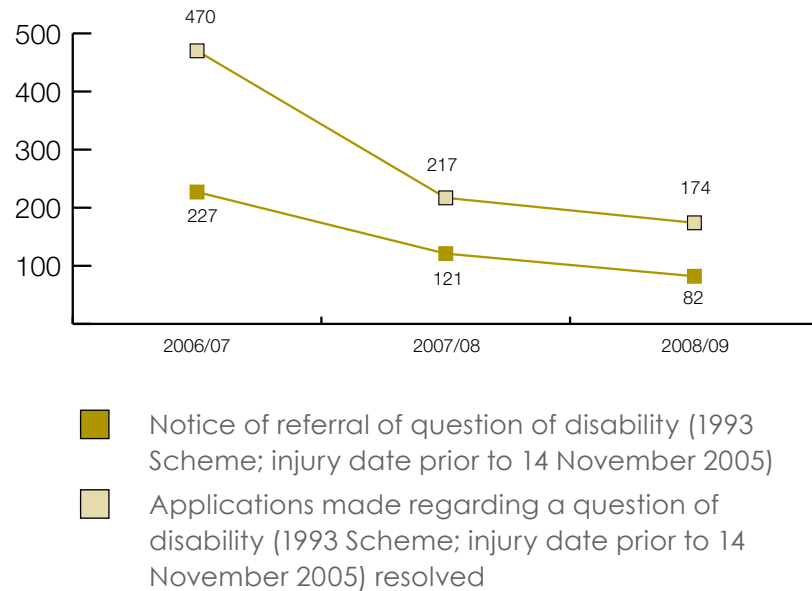
When there is a conflict of medical opinion, an arbitrator or the Commissioner may refer a question about the nature, extent or permanence of a disability or impairment, or of a worker's capacity for work, to a medical assessment panel. An arbitrator or the Commissioner may also refer a question as to the degree of a worker's disability or impairment to a medical assessment panel for assessment.

There are five main areas of operation of the DRD:

1. Resolution of minor claims and interim orders (Part XII applications). These are generally decided within five days of referral to an arbitrator.
2. Resolution of more complex disputes where, for example, liability is disputed (Part XI applications). On average more than half of these disputes are resolved within six months of the application being lodged. Complex matters such as those relating to the degree of injury may take some further time to resolve.
3. Resolution of disputes related to the degree of disability for an injury occurring prior to 14 November 2005 (previous scheme). These are cases where a worker initiates proceedings under common law to pursue damages. These matters are generally very complex and can take a considerable period of time to resolve. New applications under the 1993 scheme are steadily diminishing with time as the injuries in question must have arisen before 14 November 2005.

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Comparison between pre 14 November 2005 injuries referred and applications made



4. The registration of legal agreements entered into by parties to settle claims.
5. Recording the level of whole-of-person impairment for workers applying to access common law proceedings for injuries occurring after 14 November 2005 (current scheme). These applications are increasing over time as parties become more familiar with the scheme and applications under the previous scheme diminish.

The 2008/09 year saw an increase in the work undertaken by the DRD, with an increase in all applications other than previous scheme applications.

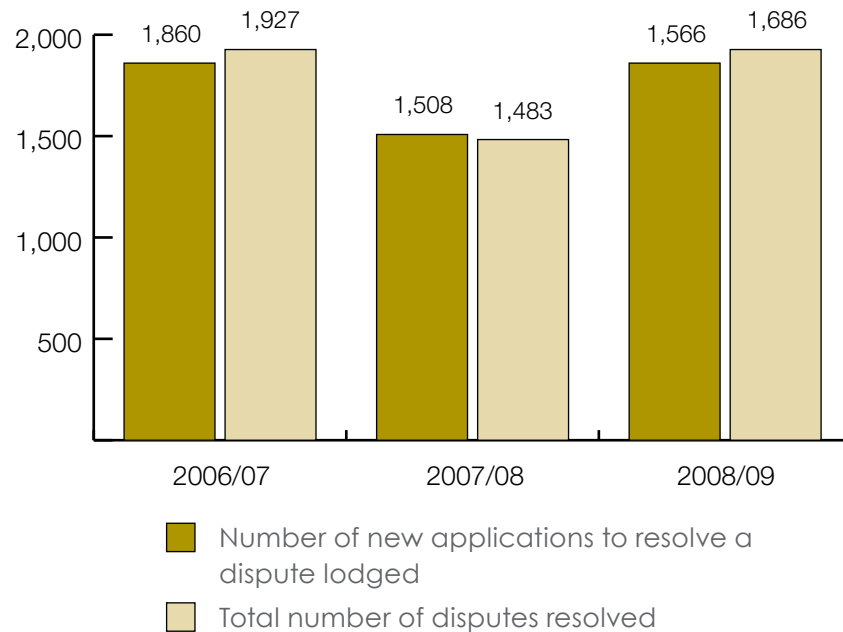
There were 1,566 applications to resolve a dispute lodged in 2008/09, compared with 1,686 disputes resolved this year. As any particular matter can be opened in one reporting year and not closed until the following year, the applications closed do not match the number of applications filed in any reporting period. For the current year, just over 100 additional matters were closed during the period compared to new applications received. The aim of the DRD is to resolve at least as many matters in any particular period as have been raised in this period.

Resolution of disputes

	2008/09 Target	2008/09 Actual
a) Percentage of Part XI disputes resolved within 26 weeks from date an application is received	68%	55%
b) Percentage of Part XII disputes resolved within 5 days of referral to arbitrator for a decision	90%	97%
c) Percentage of common law applications relating to an injury occurring prior to 14 November 2005 resolved within 52 weeks from date an application is received	50%	44%

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Trend comparison between the number of disputes lodged and the number resolved

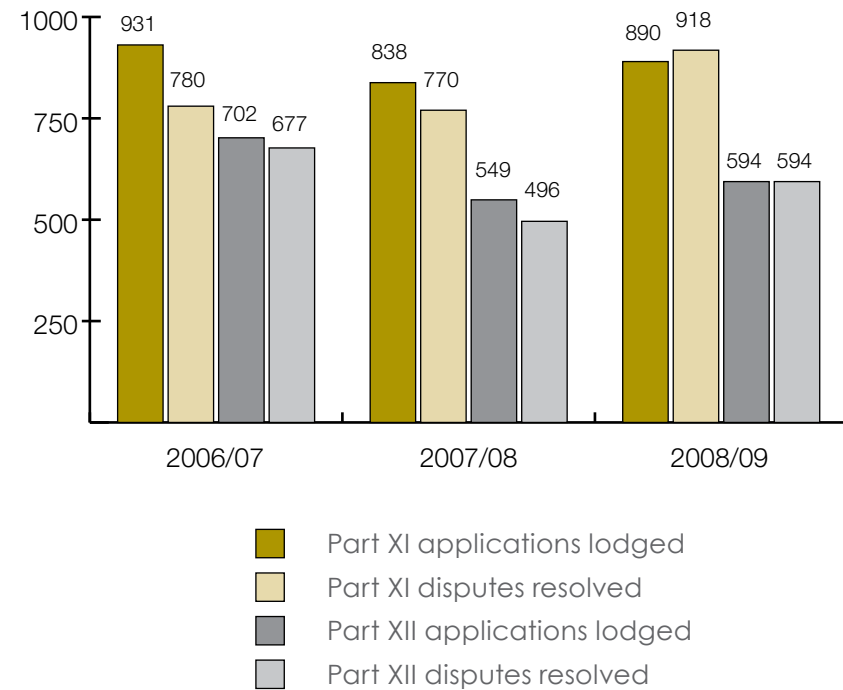


Statistics relating to disputes are the total of statutory proceedings which are Part XI and Part XII matters together with common law proceedings involving notices of referral of questions of degree of disability under the 1993 scheme (injury date prior to 14 November 2005).

These figures have been retrospectively adjusted from those reported in the previous years to allow direct comparisons to be made across the different years using new methodology employed this year as a result of the changed Key Performance Indicators. Please see additional information under the [Key Performance Indicator section](#) of this report.

The general trend, as noted above, is for the number of disputes resolved to either closely match or exceed, the number lodged. In 2008/09, more disputes were resolved than lodged, indicating a reduction in the backlog of applications.

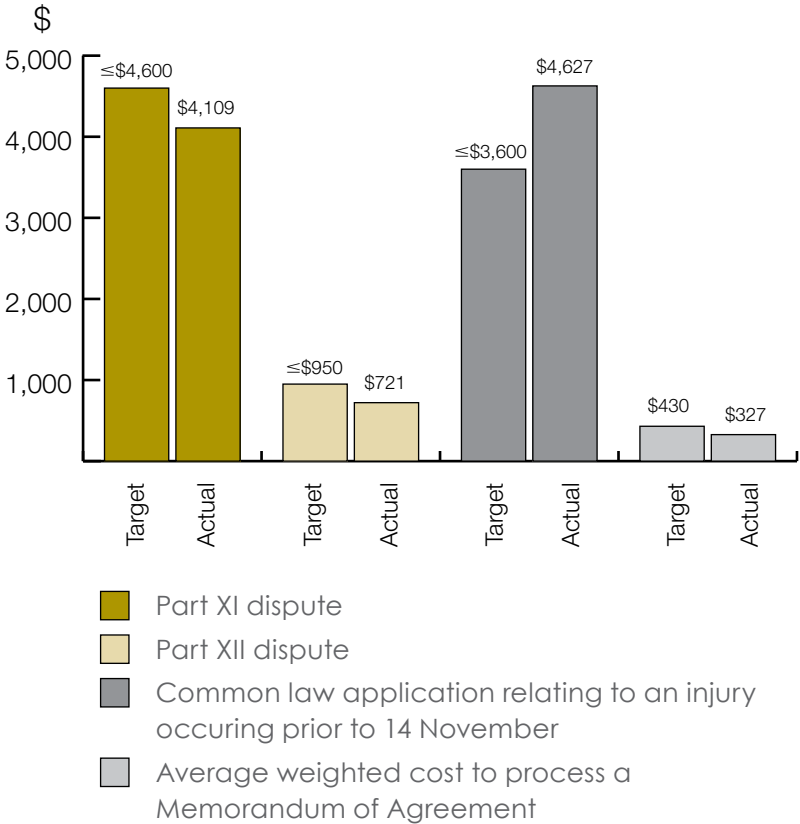
Trend in the number of Part XI and Part XII disputes lodged compared to those resolved each year



Agreements registered increased significantly, with 3,986 agreements of all kinds registered compared with 3,506 in the previous year. At this stage it is unclear if this increase is a once-off statistical effect in the current reporting year or if the rate of increase will continue. Monthly workflow statistics are kept by the DRD to ensure that resources are deployed as appropriately as possible.

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Comparison of 2008/09 target and actual average weighted costs to resolve disputes



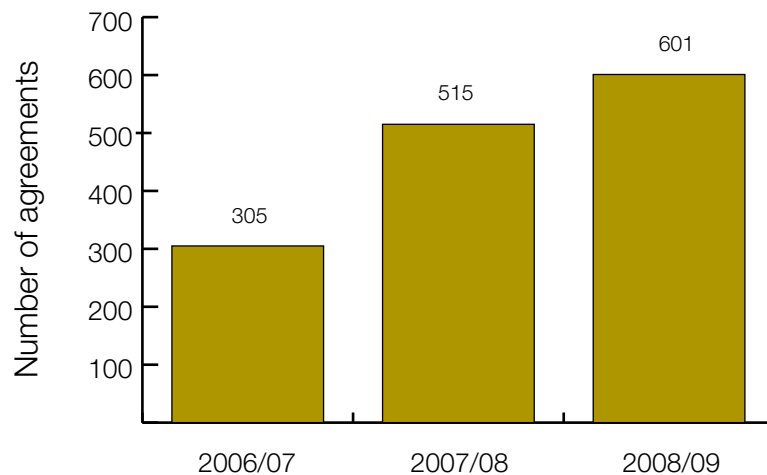
As can be seen above, with the exception of common law applications for injuries occurring prior to 14 November 2005, the targets for the cost of resolving disputes were met. This is partly due to the increase in activity – for the same fixed costs, an increase in resolution of disputes and processing of agreements results in a lower cost per activity. In the case of common law applications for injuries occurring prior to 14 November 2005, fewer were lodged and resolved, resulting in a higher cost per application.

New claims filed regarding common law matters under the current scheme (injury date after 14 November 2005) continue to climb steadily, with 601 new cases received compared with 515 in the previous year. This is in keeping with the gradual increase in these applications experienced since the review of the *Workers' Compensation and Injury Management Act 1981* resulted in a change to the way that common law matters are handled.

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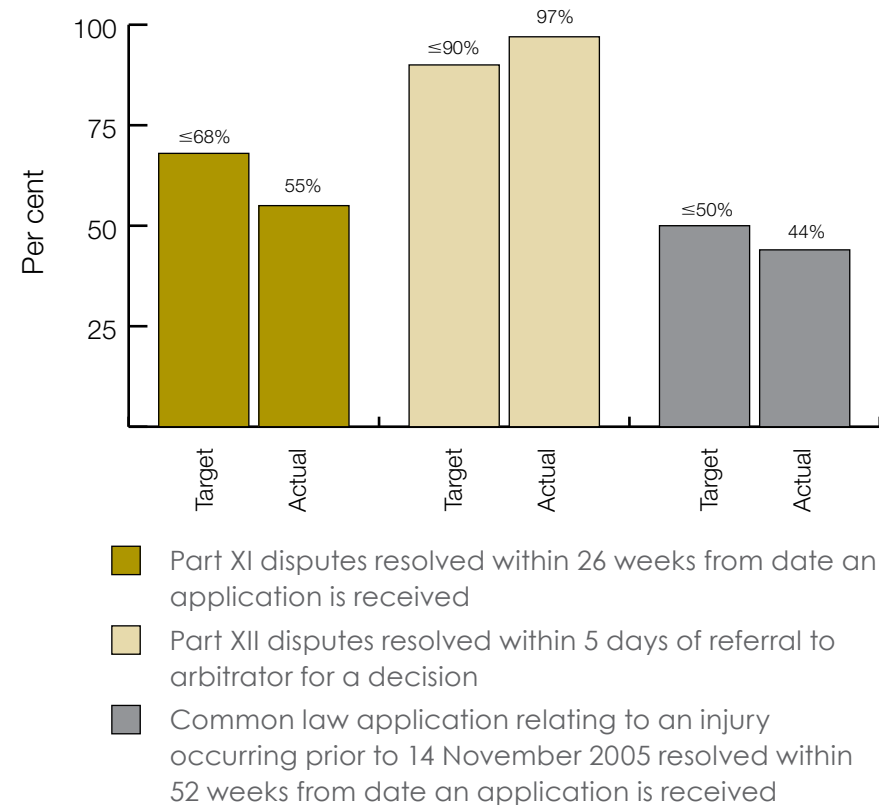
It is anticipated that this trend of increasing applications under the current scheme (the 2004 Scheme, injury date on or after 14 November 2005) will continue at the expense of applications for injuries occurring under the 1993 Scheme (injury date prior to 14 November 2005) with the passage of time from the critical date for injury, 14 November 2005.

Total number of common law applications related to an injury occurring on or after 14 November 2005 received



Specific strategies to improve efficiencies for the resolution of complex Part XI matters and common law matters under the 1993 Scheme (injury date prior to 14 November 2005) are being put into place. For Part XI applications, a low document, fast track program is being trialled commencing 1 September 2009. For common law matters under the 1993 Scheme (injury date prior to 14 November 2005), file audits indicate that all matters are being actively case managed and the current cohort of open matters are long and complex, contributing to the length of time taken for their resolution.

Comparison of 2008/09 target and actual percentages of disputes resolved within defined time limits



Satisfaction with dispute resolution

	2008/09 Target	2008/09 Actual	2007/08 Target	2007/08 Actual
Percentage of users satisfied with the dispute resolution system	68%	71%	70%	65%

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Key initiatives and activities

The DRD continues to invest considerable effort in aligning its processes, services and reporting with the objectives for the Directorate as detailed in section 279 of the [Workers' Compensation and Injury Management Act 1981](#). The need to resolve disputes in as timely and fair a manner as possible is recognised and attention to this forms a significant component of the initiatives undertaken by the DRD.

Key focus areas include staff development and capacity building, liaison with key stakeholders, accurate case management recording, enhanced reporting protocols and the offering of training for external stakeholders designed to facilitate the timely and efficient resolution of disputes.

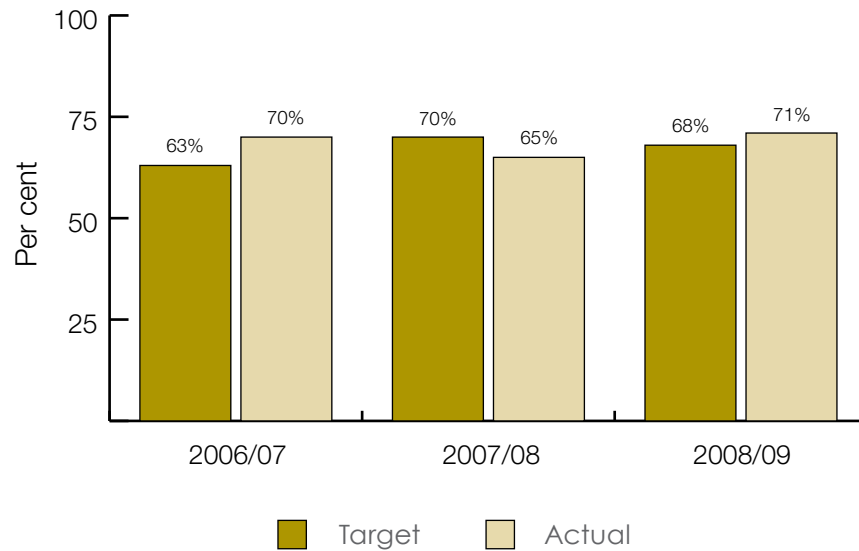


Key dispute resolution initiatives and activities in 2008/09 included:

- commencing a formal program to enhance staff capacity to better facilitate workload management. Strategies to address this included:
 - the mapping of existing processes to find efficiencies
 - the training of staff in a variety of roles across the DRD to enable better deployment of staff to address workload issues at any particular time
 - regular and continuing audit protocols for existing open files to ensure the active management of existing cases
 - regular and formal quality assurance processes on all matters as they are closed, to identify and address systemic errors
- implementing a professional development program of monthly seminars for arbitrators
- undertaking extensive work in reviewing and drafting a new set of DRD rules. At the time of going to print, the new rules had been submitted to Parliamentary Counsel for drafting
- completion of a series of advocacy workshops for legal practitioners and registered agents with up to 200 people attending each of the three sessions. Feedback on the quality of the workshops was overwhelmingly positive
- continuing the commitment to stakeholder engagement by presenting workshops to key stakeholders, active engagement of stakeholders through such strategies as meeting with registered agents and increasing communication via the [DRD e-newsletter](#), now in its 11th edition
- engaging temporary vacation research officers providing opportunities for university students to participate in the work of the DRD.

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Trend in target and actual percentage of user satisfaction with the dispute resolution system



The DRD is implementing a six-month trial of a fast track program, commencing 1 September 2009. It will involve Part XI statutory applications being brought forward for resolution with the minimum paperwork necessary to do so. Time periods are tight and the expectation is that this program will particularly suit applications where parties are in agreement about the substantive matters, there is a demonstrably urgent need for a resolution or there are limited matters in dispute. The trial will be evaluated and, based on this information, will be ceased, modified, extended or incorporated into standard procedures.