



Consumer, Trader and Tenancy Tribunal

Ten Top Tips Research

Final Report

Prepared for: Consumer, Trader and Tenancy Tribunal

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Table of contents

Summary of key findings	2
Recommendations	5
Introduction	14
Research aims and objectives	16
Methodology	17
Main Findings	18
1. Pre-lodgement process	18
Sources of information	18
Satisfaction with information provided	19
2. Lodging an application	20
Feedback on application forms	21
Applying online	23
3. Receiving a Notice of Conciliation and Hearing	24
4. Preparing for the Tribunal	25
5. On the day	27
The conciliation process	27
Hearings	29
6. Orders and enactments	31
7. Overall experience	32
Appendix A: Sample 'Ten Top Tips'	35
Appendix B: Discussion guide	42

Summary of key findings

The following section of the report presents a summary of the findings of a qualitative research study undertaken in April 2007 to identify ways in which the Consumer, Trader and Tenancy Tribunal (CTTT) may gain a better level of engagement with its clients. The project involved the recruitment, conduct and analysis of six focus group discussions with applicants and respondents who have attended a Tribunal hearing within the past 6 months. Two additional sessions were held with representatives from a cross-section of peak bodies and industry groups, as part of the CTTT consultative forums.

Awareness and understanding around the role and function of the CTTT was generally poor amongst first time applicants prior to lodging their application. Some envisaged the CTTT to be similar to the court system, whilst others had the impression of something far less formal and binding. The first port of call for information was usually the Office of Fair Trading, who then referred applicants to the CTTT. Other sources of information prior to lodging an application included government and industry body websites, non-government and community organisations (such as the Tenants Union for tenancy issues), solicitors or legal aid, as well as local Members of Parliament.

Amongst potential applicants, the key information need prior to lodgment is determining whether or not they have a legitimate case, and if so, what they need to do to in order to prove it. Some also needed assistance with filling in the forms, and in particular, specifying the type of order they wanted the CTTT to make. To this end, most would value the opportunity to talk through their issues with a knowledgeable person (preferably from the CTTT) before submitting their application.

Clients who had approached the CTTT for assistance during the pre-lodgment phase were often disappointed with their response. Most did not understand that the CTTT was not allowed to discuss cases with clients prior to the hearing date, as this could pose a conflict of interest; rather, they interpreted the lack of support simply as poor customer service. A better understanding of the role and responsibility of the CTTT, as well as the processes involved, may help to temper this view.

Respondents also had low awareness of the CTTT, and were often quite taken aback when they received their Notice of Conciliation and Hearing. For respondents, core information needs at this stage were around the role and function of the CTTT. There were also information needs around process, including: how long the hearing would take, what they were required to do, and what would happen if they did not attend.

Information provided to both applicants and respondents to help them prepare for a hearing was generally considered inadequate, especially for people using the service for the very first time. Whilst the application form contains a great deal of material for both applicants and respondents, it was clear that most clients either did not read the information, or did not fully understand what they had read.

Specific comments about the application forms included:

- The use of jargon and concepts that clients don't understand (i.e. 'orders');
- Crowded and confusing layout;
- The overall 'tone' of the documents (frequently described as formal, cold, and intimidating).

Many also felt that the information about what type of documents they needed to support their side of the story was too vague and too general. Having now gone through the conciliation and hearing process, both applicants and respondents felt that they would have benefited from more specific information about the type of evidence they should bring with them on the day to give them the best possible chance of achieving their desired outcomes. It was felt that case studies representing some of the different types of applications made to the CTTT (showing the main details of the case, what was written on the application form, the type of evidence used to support both sides of the argument, and the key outcomes) would help clients enormously in preparing their own case. These case studies could be downloaded from the website, and include mock footage of the events that took place on the day of conciliation or hearing. In addition, brief summaries of the cases should be available in printed form.

Whilst there was some anxiety about lodging applications online, most accepted that this would probably be the way of the future. To build confidence in the system, an e-mail confirming that the application has been received should be issued as soon as possible after the application has been lodged. People also seek reassurance that their personal details will be kept secure. A hard copy of important information materials (such as the Ten Top Tips guide) should also be posted out with the Notice of Conciliation and Hearing.

In addition, the application forms do not provide applicants and respondents with a clear picture of what to expect on the day. Most first timers had no idea that they would be asked to participate in conciliation with the other party involved in their case without the support and guidance of a trained conciliator throughout the process. Indeed, the conciliation process emerged as a source of considerable dissatisfaction amongst clients. Many people complained that they had already tried to resolve the dispute before they lodged an application, and that to talk through the issues again without the help of a skilled conciliator was a waste of time. However, the major concern was that the process could be very confronting; some clients were clearly very uncomfortable about having to sit in a room alone with the other party in their dispute. The pressure to reach a solution via conciliation, combined with a desire to escape the discomfort of the situation, was considered so great that some clients felt that they ended up agreeing to something that they did not think was fair. This undermined the credibility of the Tribunal's processes and findings.

Similarly, most first timers had little idea what to expect at the hearing, and were very nervous when they arrived. Many were intimidated by the open forum, and found the lack of uncertainty around process (even small things, like not knowing when to stand or how they should address the Member), added considerably to their anxiety. Clients in the Home Building and Motor Vehicles Division also expressed frustration that they did not find out, until the day, whether their application would be heard or adjourned following a directions hearing.

Uncertainty and lack of confidence with the CTTT processes was felt to place clients at a significant disadvantage. Several clients held the view that the outcomes of the Tribunal are more strongly connected to the level of comfort and experience that people have with the process, than the actual merits of their case. This seems unfair, and adversely impacts on the credibility of the Tribunal's processes and its findings.

Some clients also complained that the Member who handled their case did not spend enough time reviewing their supporting materials and they lacked expertise to handle some of the more complex cases (particularly in the Home Building and Strata Schemes Divisions).

Few people remembered seeing the 'Get It Sorted' video as it played in the waiting rooms, but by this stage they were probably so nervous that they couldn't take much information in. Whilst they were very positive about the concept of having a DVD that takes people through the processes, all agreed that it should be made available to people *before* they attend the Tribunal. Appropriate channels for promotion include:

- On the CTTT website;
- In libraries;
- In CTTT offices;
- Sent to all applicants and respondents or mailed on request.

Whilst most clients said that they understood the order or orders that were made at the hearing, information about how and by when the orders needed to be carried out was less clear. There was also low awareness that clients could request a copy of the reasons for the decision, and that there is an avenue to apply for a rehearing or appeal the Tribunal's decision, if they are unsatisfied with the outcome.

Recommendations

1. Segment and structure information tools around key stages in process

Findings of this study suggest that clients need more information around each step in the process. However, they also want the information to be presented in a simpler form and on a ‘need to know’ basis. Hence, ‘Ten Top Tips’ should be provided for each of the key steps in the process, such as

- Ten Top Tips for Lodging an Application.
- Ten Top Tips for Preparing for the Tribunal.
- Ten Top Tips for Successful Conciliation, etc.

The following model may be a useful framework for understanding the information needs of clients at various stages in the process, as well as in guiding the development and distribution of information tools and materials to meet the needs of clients at each stage.

Step 1: Deciding whether to lodge an application				
Audience	FAQs	Barriers to communication	Current sources of information	What might be helpful to clients at this time?
Parties involved in a dispute	<ul style="list-style-type: none"> ■ What are my rights? ■ Do I have a case? ■ What do I need to do? ■ Who can help me? ■ Am I entitled to lodge an application with the CTTT? ■ Is it worth the effort? ■ Where do I get the application forms? ■ How much will it cost? ■ How long will it take? ■ Are there any potential down side risks? 	<ul style="list-style-type: none"> ■ Lack of understanding regarding the role and responsibility of CTTT and services provided. ■ Fear of retribution from other party if help sought. ■ Lack of familiarity with process. ■ Assumption that nothing can be done. ■ Assumption that process is time consuming and/or expensive. 	<ul style="list-style-type: none"> ■ OFT ■ CTTT ■ Legal Aid ■ Non-government community organisations (eg Tenants Union) ■ Industry bodies (eg Real Estate Institute of NSW) ■ Local Members of Parliament 	<ul style="list-style-type: none"> ■ User friendly <i>Guide to the CTTT</i> that explains, in plain English, the CTTT role, function and key processes. ■ Case studies demonstrating the type of applications that are commonly heard at the CTTT (including key arguments, evidence used, and processes involving in reaching an outcome). ■ Stronger links, referrals and cross-promotion between CTTT and other relevant agencies, such as the OFT (including websites and printed collateral). ■ Telephone advice line for general enquiries and information around process.

Step 2: Lodging an application				
Audience	FAQs	Barriers to communication	Current sources of information	What might be helpful to clients at this time?
Applicants	<ul style="list-style-type: none"> What does an order mean? What can I claim? (Does this include expenses?) How much information should be included about the dispute? Have I filled in the form correctly? Can anyone help me to fill in the form? What are the time limits? Where/how do I lodge the application form? What will happen next? (eg When will the hearing take place? How much time does it take? How should I prepare? What should I bring?) 	<ul style="list-style-type: none"> Clients overwhelmed by information contained in application form (important messages easily overlooked). Layout is crowded, confusing and hard to read. Language is not plain English. 	<ul style="list-style-type: none"> The application form and accompanying material ('What Happens at the Tribunal'). CTTT helpline (but unable to assist in completing form, wording the orders). Advocacy groups. 	<ul style="list-style-type: none"> Ten Top Tips for filling in the application form (including examples of how to word an order). Best practice examples of completed application forms. Plain English glossary of key terms. Clear instructions on how to obtain registered business name of other party (where relevant). Clear guidelines on extent to which CTTT can assist people with filling in the forms. Referral to advocacy and other support services for people who are having trouble completing the forms.

Step 3: On receiving a Notice of Conciliation and Hearing				
Audience	FAQs	Barriers to communication	Current sources of information	What might be helpful to clients at this time?
Respondents	<ul style="list-style-type: none"> What is the CTTT? Do I have to attend? (What happens if I don't come?) What do I need to bring with me? Can I bring someone with me as support? If I lose will I need to pay straight away on the day? What can I do when I know it is all lies? 	<ul style="list-style-type: none"> Feelings of anxiety, embarrassment, anger upon receiving the notice. Mixed reports about helpfulness of CTTT front line staff. Low recognition of 'WHATT' form, suggesting that it is not always sent to respondents and/or information is not being read. 	<ul style="list-style-type: none"> CTTT is usually first port of call for information after receiving a notice. 	<ul style="list-style-type: none"> User friendly Consumer Guide to the CTTT that explains the CTTT role, function and key processes. Referral to appropriate support and advocacy services.

Step 4: Preparing for Tribunal				
Audience	FAQs	Barriers to communication	Current sources of information	What might be helpful to clients at this time?
Applicants and respondents	<ul style="list-style-type: none"> What actually happens at the hearing? How much time does it take? How should I prepare? What should I bring? What happens if I can't come? Can someone come with me for support? Should I bring witnesses? Will I have to pay if I lose my case? 	<ul style="list-style-type: none"> Depth, tone and format of information provided in application forms not enough to adequately engage and prepare first timers. Low awareness of 'Get it Sorted' DVD prior to attending the Tribunal. 	<p>Currently inadequate:</p> <ul style="list-style-type: none"> CTTT website WHATT form AUSTlii website 	<ul style="list-style-type: none"> Comprehensive (but user friendly) 'guide to CTTT', including ten top tips for preparing for the Tribunal Case studies. Checklist of what to bring on the day. Having a look at decisions made on similar cases (via AUSTlii). Opportunity to 'sit in' on other cases, to become familiar with processes prior to own hearing. Documenting the key points in the case (and practising explaining these out loud to a friend or family member).

Step 5: At conciliation and hearing				
Audience	FAQs	Barriers to communication	Current sources of information	What might be helpful to clients at this time?
Applicants and respondents	<ul style="list-style-type: none"> Who should I report to when I arrive? What happens, when? What exactly do I need to do at each point in the process? How do I go about conciliating? (Do I have to?) What should I do if I feel threatened by the other party? How should I address the member? What evidence should I present? What happens afterwards? 	<ul style="list-style-type: none"> Lack of information prior to attending Tribunal. Uncertainty and lack of familiarity with process adds to anxiety. 	<ul style="list-style-type: none"> Rolling footage from 'Get it Sorted' DVD. 	<ul style="list-style-type: none"> Easily identifiable and empathetic customer service staff, available to answer questions and put people at ease. Posters/ simple handouts reminding clients of key steps in process. Access to a photocopier.

Step 6: After an order is made				
Audience	FAQs	Barriers to communication	Current sources of information	What might be helpful to clients at this time?
Applicants and respondents	<ul style="list-style-type: none"> ▪ What is the outcome? ▪ Is the decision legally binding? ▪ What are the reasons behind the decision? ▪ When and how should the order be carried out? ▪ What should I do if the order is not carried out? ▪ Can I appeal, and if so, how? 	<ul style="list-style-type: none"> ▪ Anxiety may limit the amount of information clients can absorb on the day. ▪ Written information about this stage of the process is not always provided. 	<ul style="list-style-type: none"> ▪ Presently unclear. 	<ul style="list-style-type: none"> ▪ Written copy of the order, including dates and process by which it should be enforced. ▪ A fact sheet explaining that clients may obtain a copy of the reasons behind the decision. ▪ A fact sheet explaining that appeals process (available on request).

2. Develop a user friendly guide to CTTT processes

This Consumer Guide should include the Ten Top Tips for lodging an application and preparing for Tribunal (in summary form), as well as more detailed information for consumers, addressing their key information needs at various stages in the process. This might include:

- An introduction to the CTTT, and a brief explanation of roles, responsibilities, and limitations (including how it differs from a court, and that the decisions are binding);
- A discussion of why being prepared for Tribunal is important;
- Description of key steps involved in making or responding to an application;
- A checklist of ‘important things you should do’ at each of the key steps in the process, including good practice ‘tips’;
- Explanation of what is meant by an order (and an example of what these could be);
- An example of a completed application form;
- FAQs;
- Details of where clients can go for more information or assistance, if needed.

The Guide should be made available on the CTTT website, as well as in printed form - ideally as an easy-to-read booklet, in a form similar to Legal Aid Queensland's 'Consumer Guide to the Small Claims Tribunal'.

Appropriate distribution channels include CTTT Registries, the CTTT website, the Office of Fair Trading, Legal Aid, as well relevant non-government community organisations and industry bodies (such as the Real Estate Institute of NSW, Motor Vehicle Traders Association, Tenants Union NSW etc.).

To avoid confusion, the information presented in the Consumer Guide should be largely restricted to general information that is relevant across all divisions of the CTTT. However, reference should be made to separate fact sheets for each Division, containing more specific information that is important for people who are lodging or responding to a claim under that Division.

3. Develop a range of 'good practice' case studies to assist clients prepare their own case

Case studies should represent a cross-section of applications that are made to various divisions of the CTTT. This information would be useful in assisting applicants and respondents complete their application and prepare their own case.

The type of information that could be presented in the case studies includes:

- the main arguments of the case;
- a copy of the completed application form;
- type of evidence that was used to support each side of the argument;
- mock footage of the events that took place on the day of conciliation or hearing (downloadable from the CTTT website); and
- a summary of key outcomes.

Brief summaries of the cases should be available in printed form. A small selection should be considered for inclusion in the consumer guide.

Clients should also be referred to the AUSTlii website for decisions on recent cases that have been made by the CTTT.

3. Review Application Forms

- Redesign layout, tone and language to improve comprehension and message clarity.
- Limit information that is included on the application form to important information that will assist people in correctly filling in and lodging their application form, such as:
 - the importance of getting the respondent's name right, and how to search for a registered business name;
 - time limits, and how they apply;
 - what is meant by an order;
 - information that will be passed on the other party (and what to do if you want to keep any of the details private, such as your address);
 - how to request an interpreter;
 - how/where to lodge their forms;
 - what to do if they need help to fill in the form; and
 - what will happen after the form is lodged.
- Refer applicants to the more user friendly Consumer Guide, for more detailed information about the CTTT and its broader processes, including 'must read' information on how to prepare for the conciliation and hearing (copies of this guide should be distributed with the application form).
- Include a glossary of legal terms used, using plain English.
- Remind applicants to keep a copy of their application form, along with relevant supporting materials, together in a safe place.

4. Provide greater information and support to clients around the conciliation process

Including:

- A plain English description of why and how conciliation is part of the CTTT process, including the benefits of participating;
- A step by step description of how the conciliation process works and what will happen on the day;
- Clear guidelines on rights and responsibilities (including clients' right to decline to take part in conciliation, and what they should do if they feel threatened by the other person);
- Tips on how to prepare for conciliation;
- Footage of (mock, but realistic) conciliation in action (available via download on the CTTT website);
- Ensure that parties know their rights (including the right to refuse to take part conciliation);
- Wherever possible, ensure that a conciliator is present for at least the first few minutes to ensure that both parties understand and are comfortable with the process, and to help 'kick start' the discussions, and explain the key steps;
- Provide participants with broad guidelines and a running schedule that covers the key steps to conciliation and 'rules of engagement';
- Ensure that separate physical spaces are provided for clients who feel threatened by the other party.

Given clients' apparent level of discomfort with conciliation (and in particular, the expectation that they should participate in conciliation without the assistance of an independent third party in the room at all times), it is also recommended that the CTTT gives consideration to increasing staff levels on a trial basis at one of the Tribunal Registries. An impact evaluation and cost/benefit analysis following the trial period would determine whether or not having a trained conciliator on hand at all times during the conciliation process increases the number of cases that reach agreement prior to hearing, and would allow CTTT to weigh up the costs of expanding the service against the potential benefits.

5. Further develop the CTTT website as a resource for CTTT clients and industry bodies

While feedback on the CTTT website was positive, future developments could include a range of audio and visual materials (i.e. mock footage of CTTT processes in action) to support written information materials around the processes.

- All printed collateral (including application forms) should be made available in a downloadable format. There should also be a simple to use online order system for people who would like hard copies of the materials sent to them via post.
- To build confidence in the online application system, an e-mail confirming that the application has been received should be issued in a timely manner. A hard copy of relevant information materials (such as the Consumer Guide) should also be posted out with the Notice of Conciliation and Hearing, to ensure that online applicants do not miss out on important information that could help them in preparing for Tribunal.

6. Consider ways in which CTTT can be made more accessible to rural and regional clients

Including:

- Promote awareness of CTTT in regional areas.
- Ensure, wherever possible, that cases are heard and resolved on the day specified on the Notice of Hearing and Conciliation.
- Develop and trial processes for hearing cases via telephone or videoconference.

7. Promote awareness and understanding of the CTTT, including it's role, responsibilities, and processes, via relevant peak and industry bodies

In explaining the role and function of the CTTT, it should be made very clear that the Tribunal cannot assist parties in preparing a case or writing their order, and why. Referrals should be made to other organisations that may be able to help people who need help in preparing their case.

Continue the consultative forums as a way of gathering feedback, staying on top of consumer issues and providing information to peak bodies about the CTTT. To encourage ongoing participation in this process, it will be important to:

- Provide forum members with an opportunity to raise issues that are important to them.
- Manage expectations by clearly explaining the goals and structure of upcoming forums in letters of invitation.
- Demonstrate that the CTTT is listening to what people have to say by following up on key issues that are raised in the forums (a regular e-newsletter may be a simple and cost effective way of staying in touch and providing follow-through).
- Set limits on the number of participants at each forum, to ensure that everyone who attends has an opportunity to speak.
- In some cases (depending on the topics for consideration), it may be appropriate to hold separate forums for different interest groups.

8. Ensure greater consistency in customer service/information provision across Tribunal Registries

- Provide clear guidelines (for both staff and consumers) on the roles and responsibility of CTTT, including processes for referral.
- Ensure that front line staff are aware of information materials and services that available to educate and support clients, and encourage/reward staff who are proactive in passing this on to clients.
- Provide staff with additional training in customer service, including active listening and emotional intelligence skills.
- Include ‘people-focused’ metrics in KPIs of front line staff (i.e. response times, communication skills, pro-activity etc.).
- Ensure that customer service staff at the Tribunal venue are easily identifiable, trained to answer questions and are able to put people at ease.
- Increase accountability for excellent customer service and follow through by asking staff to identify themselves by name when answering telephone calls and speaking to clients.

Introduction

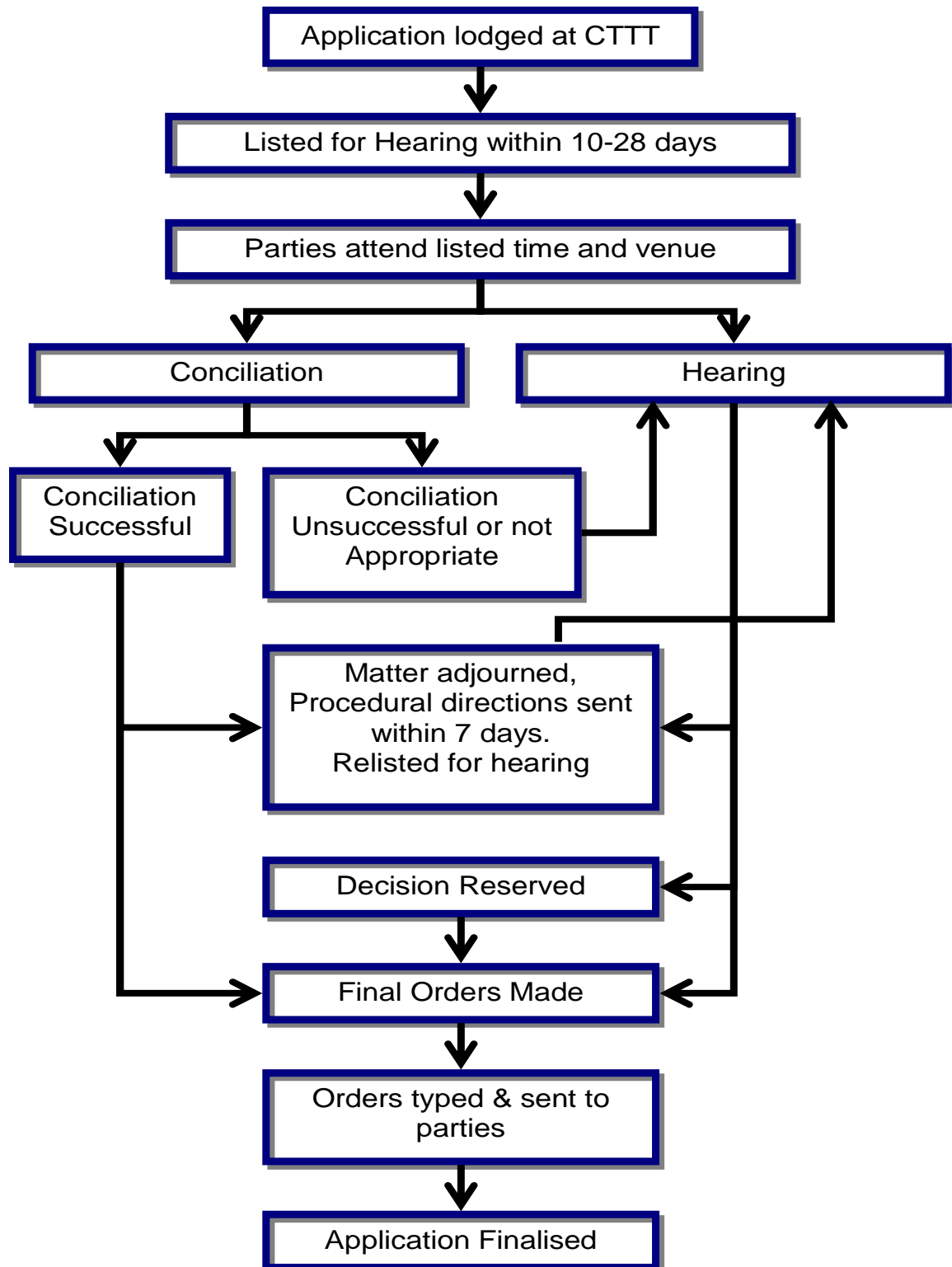
Every person living in Australia is a consumer and we rely on consumer laws to protect us. The NSW Office of Fair Trading (OFT) is the government body that administers these consumer laws and looks after the rights of consumers in New South Wales. When disputes arise on any consumer, trader or tenancy matter, the Consumer Trader and Tenancy Tribunal (CTTT) provides a specialist dispute resolution forum for the determination and resolution of the disputes. In 2005/6 the Tribunal received 61,089 applications and held 74,647 hearings across 95 locations across New South Wales.

The Tribunal has eight divisions:

- **The Tenancy Division** hears disputes between landlords and tenants who have entered into such an agreement;
- **The General Division** hears disputes between consumers and traders concerning goods and services;
- **The Home Building Division** hears disputes between consumers and traders and insurers concerning residential building work;
- **The Residential Parks Division** deals with disputes between park owners and park residents who have entered into such an agreement;
- **The Motor Vehicles Division** hears consumer claims against motor dealers or motor repairers concerning the supply of goods and services;
- **The Strata and Community Schemes Division** hears disputes between lot owners;
- **The Commercial Division** primarily hears credit matters concerning a credit contract that is for personal or household uses, including leases, home loans, and insurance related to a credit contract.
- **Retirement Villages Division** hears disputes between retirement village administration and one or more resident.

The Process

The broad process (with some variations depending on the Division) is as follows.



Research aims and objectives

The overall aim of the study was to ensure that clients using the CTTT's dispute resolution services are well informed and well prepared.

More specifically, the research objectives are to identify:

- What are clients' perceptions and expectations about the hearing process and outcomes?
- How prepared clients were before the hearing?
- What did they prepare?
- What is their current awareness of the existing information services?
- How relevant are the existing information services?
- What are the strengths and limitations of information currently available?
- How well are these services delivered?
- What are the critical issues for improvement?

The research (undertaken by a series of focus groups) will provide relevant information from clients about their experience with CTTT. This will help to identify gaps in CTTT services and to determine how the CTTT may provide the best possible service to its clients.

Methodology

The target audiences for the qualitative research were NSW clients of the CTTT. In April 2007, six focus group discussions were conducted with clients who have attended a Tribunal hearing within the past 6 months. The discussions took place Parramatta, Lismore and North Sydney, according to the following sample frame.

Focus Group Sample Frame				
	Tenancy	General & MV	Strata	Home Building
Parramatta	1 group (10 participants)	1 group (7 participants)		1 group (7 participants)
Lismore	1 group (6 participants)	1 group (7 participants)		
North Sydney			1 group (7 participants)	

Each group had a mix of both applicants and respondents. Care was taken to ensure that both parties from the same case were not invited to be in same group. In total, 44 clients participated.

In addition, representatives of peak and industry bodies were invited to participate in one of three group discussions that were held as part of the CTTT consultative forum. The forum members were grouped as follows:

Group 1: 26 th April 2007	Group 2: 3 rd May 2007	Group 3: 23 rd May 2007
Sydney	Sydney	Newcastle
<ul style="list-style-type: none"> ▪ Retirement Villages Division ▪ Residential Parks Division ▪ Tenancy Division ▪ Strata and Community Schemes Division 	<ul style="list-style-type: none"> ▪ Commercial Division ▪ Motor Vehicles Division ▪ Home Building Division ▪ General 	<ul style="list-style-type: none"> ▪ Residential Parks Division

Main Findings

1. Pre-lodgement process

Sources of information

As a potential applicant, there are a number of questions that need to be addressed before filing an application:

- What are my rights?
- Do I have a case? (In other words, 'is it worth all the effort'?)
- And if so, what do I need to do to prove it?

Often, the first port of call for information regarding applicants' rights is the Office of Fair Trading (who then directed them to the CTTT). There are also a range of other sources:

- Government websites.
- Industry bodies.
- The Tenants Union and real estate agents (for tenancy issues).
- Solicitors or Legal Aid.
- Local Members of Parliament.

“We went to Legal Aid, just to see if they could help us preparing the case. But they couldn't really. They referred us back to the CTTT.”

However, unless they had prior experience of the CTTT, it was rare for applicants to call the CTTT directly. In fact, most had limited understanding of the role or purpose of the CTTT prior to lodging an application.

Usually the quest for information began with an internet search, and was often followed by a phone call or personal visit to the relevant office. At this stage, applicants were looking for information and guidance regarding their rights and responsibilities, including whether or not they had a legitimate case, and if so, what they could do about it.

Satisfaction with information provided

Perceptions of the quality of information available to the public about the CTTT and its processes were mixed. While many praised the information and support provided by the OFT, others said it conflicted with what they were later told by the CTTT. Likewise, there were mixed reports about both the quantity and quality of the information and support provided by the CTTT.

“There was nothing forthcoming, even when you applied. There was no time, place, date. It was very cold.”

“I dealt with a lady who was very helpful. She sent me brochures and emails to tell me what happens and rings me to ask how it’s going and she offered to review my application before it was posted to the CTTT. She was wonderful, very helpful...”

(Note that further probing suggested that this client obtained this information from the Office of Fair Trading).

There was often a great deal of confusion around the roles and responsibilities of the CTTT, and its connection to the OFT. In particular, many clients expected that the CTTT would be able to advise clients whether or not they have a case, and assist them to prepare it. This lack of understanding around the role of the CTTT is a cause of a great deal of dissatisfaction with the information and support provided.

“There are no guidelines around how to deal with the organisation.”

“It’s an unfamiliar process, and people are fearful of that.”

One of the specific complaints people make is that that much of the information available is too general to be of much use. Many would like to have been able to talk to someone about their issues, to obtain advice and guidance that was tailored more specifically to their case. Again, there was disappointment that the CTTT was unable to provide this level of assistance and a lack of understanding around their requirement to stay impartial.

“Somewhere face to face you could go to with your information and say ‘is it worth pursuing?’”

At minimum, clients felt that it would be useful to obtain details (including arguments and outcomes) of similar cases that have been brought before the CTTT. In this context, some found the AUSTlii website very useful because it enables clients to research the evidence and outcomes of cases similar to their own.

2. Lodging an application

Completing the application form is not a straightforward task. Many clients said that they had difficulty with this step, and several said that their application was initially rejected because they did not fill in the form correctly.

“It’s all in legal terms; they don’t explain it in plain English. So that was difficult.”

“Pity help anyone who speaks English as a second language, or can’t read very well.”

“I think for a lot of people, too it’s intimidating, if they haven’t had to encounter this before.”

Areas that applicants struggled with included:

- Specifying the order they wanted;
- Making sense of the time limits and how they apply (time limits should be clearly specified on the application form);
- Deciding how much information they should include about the case;
- Correctly naming the respondent.

Of note, the term ‘order’ cause considerable confusion amongst clients (‘outcome’ would make more sense. There was also confusion around whether applicants needed to complete separate applications if requesting several different orders.

Application forms that provided applicants to ‘tick a box’ against one or more types of orders (as in the General Division application) were considered easier to fill in than those that provided space for clients to specify the order, in their own words (e.g. Application about Residential Tenancy Agreements).

Feedback on application forms

Whilst the application form contains a considerable amount of information for both applicants and respondents, it was clear that most applicants and respondents either did not read the information or did not understand what they had read. Indeed, the research highlighted a number of barriers to understanding and using this information:

- The layout - described as ‘dense’, ‘hard to read’, and ‘not user friendly’.
- The language used - described as ‘legalistic’, ‘not plain English’.
- The overall tone... described as ‘cold’ and ‘litigious’ rather than helpful.

“That is very squashed. Make it more spacious and easy on the eye, so it doesn't look like it's overwhelming you. You are in a bad situation when you get into this level, you don't want to be aggravated more....”

“There is a lot of quoting of the Residential Tenancies Act – I didn't read it... and again, it is because it's an Act of Parliament it's written by lawyers for lawyers not for ordinary people.”

“You finish lodging and at the end it says 'please bring all forms in triplicate' but it didn't say what forms they were, they just said 'forms'.”

“They need to really break it down. Don't assume that people know what the Tribunal is.”

Specific areas participants identified as confusing, and the comments that were made, are outlined in the tables below (presented by CTTT Division):

Home Building Division	
Area of confusion	Comments made
When can I apply?	What are the Fair Trading Centre's processes, and how do I contact them? Why do I have to go there first?
Time limits	What does that mean? What are they? Why can't they be listed on the form?
OFT contact	I spoke to OFT on the phone and they referred me to the CTTT, but did not get anything in writing – I assumed that was the contact that was required.
ACN	Why ACN and not ABN?
What orders do you want?	What is an order? How do you know what you can claim and how much it is?
Has insurer been notified?	Does this mean I can only make a claim if I am insured?
Contractors license number	What do I do if the contractor has no license?

Tenancy Division	
Area of confusion	Comments made
What is the CTTT?	It says disputes are resolved at a hearing or by Alternative Dispute Resolution. What does that mean?
Time limits for broken tenancy agreements	Too short - by the time you have negotiated and gone back and forward 30 days is up.
Who is a conciliator?	I was confused. I thought this was the person who gave the order.
What orders do you want?	What does this mean? Couldn't they provide an example? I wanted more than one. Do I need to fill out several application forms?
Time limits apply for certain orders	Which ones, and where do I get the information?
What to bring?	It tells you what to bring to the hearing and then says a copy of the application and any attachments will be sent to the respondent. What do you send with the application and what do you bring to the hearing?
Fee details	Why don't they have the fee on the form— why do we have to contact the CTTT?
Information services	I did not know who to contact about what. It just lists them.

General/Motor Vehicle Division	
Area of confusion	Comments made
Is the respondent a legal entity?	What does that mean?
What can I claim	I believed I could claim all expenses. It is not clear.

Strata Division	
Area of confusion	Comments made
Who is the other party (respondent?)	Should I put down the owner or the body corporate?

In summary, the key information needs at the application stage include:

- *What does an order mean? What can I claim? (Does this include expenses?)*
- *Have I filled in the form correctly? Can anyone help me to fill in the form?*
- *What are the time limits?*
- *Where/how do I lodge the application form?*
- *What will happen next?*

Applying online

Around half of the applicants who had made applications in Divisions where it is possible to submit online were aware that they could submit in this way, however only a few had actually done so. The main barriers to applying online included:

- Concerns that the website might not be secure;
- The need for reassurance that the application form has been received and correctly filled in;
- The fact that supporting material has to be submitted alongside the application anyway.

“It’s convenient.”

“It’s got advantages and disadvantages. My concern is that you might miss out on some information, like what you have to prepare and bring to the tribunal on the day.”

One applicant who had lodged online stated he was initially very nervous because he did not receive a confirmation that his application had been received.

Having said that, clients predicted that online submission of forms would become far more commonplace in the future. Should they need to lodge an application to CTTT in the future (and assuming they knew they could do so), most participants felt that they would be confident enough to lodge their application online.

To build confidence in the system, an e-mail confirming that the application has been received should be issued as soon as possible after the application has been lodged. People also seek reassurance that their personal details will be kept secure. A hard copy of important information materials (such as the ten top tips guide) should also be posted out with the Notice of Conciliation and Hearing.

3. Receiving a Notice of Conciliation and Hearing

Along with a Notice of Conciliation and Hearing, respondents should receive a photocopy of the application part of the form and any other documents received with the application. They should also receive the brochure called ‘*What Happens At The Tribunal*’ (WHATT), however very few respondents recalled ever seeing this.

“I don’t remember seeing these documents.”

Many respondents said they were taken aback and confused when they received their Notice. Most had never even heard of the CTTT, let alone understand its role. Even if they felt that the claims against them were unfair, their immediate emotions were shame, embarrassment and confusion. They also often felt angry, after their initial shock had subsided.

Upon receiving the Notice, respondents sought further information and clarification about the role of the CTTT and the processes involved. Specifically:

- *Do I have to attend? (What happens if I don’t come?)*
- *What do I need to bring with me?*
- *Can I bring someone with me as support?*
- *If I lose will I need to pay straight away on the day?*
- *What can I do when I know it is all lies?*

The first port of call for respondents seeking more information was generally the CTTT. However, they also turned to the same sources as applicants to find out their rights.

One client expressed frustration that if you had a query, even if it a very general query, no one at the CTTT would assist unless you could tell them your file number first.

4. Preparing for the Tribunal

The level of understanding people had around what they needed to do to prepare for Tribunal was extremely varied amongst the clients we spoke to. One thing was clear, however, and that was that the information provided in the application forms is generally not enough to adequately prepare anyone doing this for the first time.

“None of the information I got gave me any idea of what was going to happen on the day.”

“I certainly had to do all the research myself about previous cases. I have a lot of friends who are landlords, and basically asked lots of questions, but it didn’t seem there was any avenue where you could get the information from the Tribunal itself.”

Whilst the application forms state quite clearly that relevant documents should be brought to the hearing in triplicate, confusion prevailed over what these documents entail. Having gone through the conciliation and hearing process, both applicants and respondents felt they would have benefited from more specific information about the type of evidence they should bring to give them the best possible chance of achieving their desired outcome. They also felt that the best way to explain this would be via a series of case studies representing some of the more typical cases heard at the CTTT.

“The information is too generic.”

“It would be good if they had some case studies on the website, showing different scenarios, A, B, C, or whatever. You could pick the scenario closest to your case, and it would give you a list suggesting the type of documents you should bring.”

Another common complaint amongst ‘first timers’ was that they were not given enough information about what would happen on the day of their conciliation and hearing. Some thought the CTTT was similar to the court system while others had the impression of something far less formal. The application forms and WHATTT form do little to clarify this.

For many, the expectation that they would participate in conciliation with their ‘adversary’ came to them as a complete (and rather unpleasant) surprise. (Read more about this in Section 5 below). They also did not realise, until the day, that if their case went to hearing that they would be required to speak in front of a room full of people, including members of the general public.

Key information needs are similar for both applicants and respondents in the lead up to conciliation and hearing:

- *What actually happens at the hearing?*
- *How much time does it take? (I.e. Do I need to ask for the whole day off work?)*
- *How should I prepare?*
- *What should I bring?*
- *What happens if I can't come?*
- *Can someone come with me for support?*
- *Should I bring witnesses?*
- *Will I have to pay if I lose my case?*

Lack of preparation on the part of applicants does not just waste the Tribunal's resources, it is a source of frustration for respondents too. Whilst relieved that the applicant did not have enough evidence for a case against them, they were also annoyed to have been 'dragged into court' only to find out that the person who lodged the claim against them hadn't done enough preparation for the case to be heard.

5. On the day

Key information needs on the day include:

- *Who should I report to when I arrive?*
- *What happens, when?*
- *What exactly do I need to do at each point in the process?*
- *How do I go about conciliating? (Do I have to?)*
- *What should I do if I feel threatened by the other party?*
- *How should I address the member?*
- *What evidence should I present?*
- *What happens afterwards?*

The conciliation process

The Tribunal has an obligation to assist parties to reach an agreement wherever possible. Conciliation is a tool used regularly in conjunction with group listings to assist in dispute resolution. On arriving at the hearing, parties are asked to go into a private room and try to come to an agreement to resolve the dispute.

Most first time participants did not understand that they would be required to participate in conciliation prior to their hearing, nor did they feel that the process was adequately explained to them upon arrival. Their account of the experience was that they were told to go away and talk about the issues with the other party, and try to come up with a resolution on their own.

Whilst people were generally supportive of the concept of giving both parties a chance to sort out their differences away from court, the overwhelming attitude toward the CTTT conciliation process was negative. Many people complained that they had already tried to resolve the dispute before they lodged their application. To talk through the issues again seemed like a waste of time, unless a skilled mediator was present to support them through the process.

“Everything has already been said”

“A waste of time really.”

“I was confused to start with, going into the room with the person we had the dispute (with). I didn’t know what to do when they said go for mediation. I didn’t know how to go about that. It turned out to be an argument at the end of the day.”

The fact that a conciliator was not present at all times during the process came as a shock to both respondents and applicants. When asked to go for conciliation, all participants expected that they would get some kind of assistance from an independent third party to guide the negotiation. They struggled to see how conciliation could work if a trained facilitator was not there the whole time to assist them.

However the major concern people had with the conciliation process was that they were asked to sit alone in a room with the other party. For some, this was a confronting and frightening experience. Clients in Parramatta who had had their first hearing scheduled for Hornsby remembered this as particularly intimidating as there were no meeting rooms available and they were required to talk with their adversary outside.

“I knew there was a mediator, but I didn't realise that they were just going to leave us and say 'try and work it out' and you get into a heated argument, which is why I'm saying it's kind of a dangerous process at the same time. I think it's a real big risk for the CTTT to take that.”

Some clients felt the pressure to come to a solution in the conciliation process was so great that they ended up agreeing to something that was not really fair. To prevent this from happening, it is important that the conciliator keeps a close eye on the proceedings and ensure that both parties are genuinely comfortable with any agreement that is reached. Moreover, Tribunal Members should never accept a decision that doesn’t seem fair.

“If you make an agreement with the other applicant, whether you're in the right or wrong, they're not interested in that – you've made the agreement, sign it, and she's happy – even though the agreement you've made might be against you because you're not experienced enough to make those decisions. She's not worried about that, all she's worried about is agree, sign, sign, see you later. They should look at an agreement and say hang on, you're really doing yourself in here, be careful. But they're not there to do that, they're just there to get you to make an agreement, right or wrong, they're not there to uphold the law, they're just there to get people to agree and go and that's it...”

Apart from having a mediator present throughout the entire discussion, ideas on how to make conciliation work were few and far between. Some suggestions included:

- Provide parties with clear information about what to expect at conciliation prior to the day of the hearing;
- Ensure that parties know their rights (including the right to refuse to take part in conciliation);
- Wherever possible, ensure that a conciliator is present for at least the first few minutes to ensure that both parties understand and are comfortable with the process, and to help ‘kick start’ the discussions, and explain the key steps;
- Providing participants with some broad guidelines or running schedule that covers the key steps to conciliation and ‘rules of engagement’, such as:
 - First, each party calmly state their case.
 - Secondly, review each others documentation.
 - Thirdly, put forward possible solutions.
 - Discuss each solution rationally.
 - Document any resolution.

Hearings

Most first timers had no idea what to expect at the hearing and were extremely nervous when they arrived. Group hearings created a lot of anxiety; not only were they embarrassed about ‘airing their dirty laundry’ in an open forum, many people were terrified about standing and speaking in a room full of people. Even relatively small things, like not knowing when to speak or how to address the Member, could become a source of considerable anxiety. Of note, clients felt that the CTTT lacked awareness and understanding of how clients were feeling.

A further source of frustration for clients in the Home Building and Motor Vehicles Divisions is that they did not know whether their case would be resolved at conciliation, heard at a general hearing, or heard at a directions hearing (requiring them to come back for a subsequent hearing).

Deciding what information to present at the hearing was often difficult for clients. In terms of supporting evidence most erred on the side of bringing everything related to their case ‘to be sure’.

Reactions to the Members were also a cause for concern; while some clients praised the Member who handled their particular case, many were very critical. The main criticisms were that the Member was abrupt, made them feel inadequate and foolish, and/or had not read the supporting material provided. Indeed, many felt they were too rushed and that they did not spend enough time on each case before them.

“I spent a lot of time compiling my supporting material, then the cost of copying it three times- and it wasn’t even looked at. He (the Member) didn’t care.” (Parramatta)

“The member said he was running out of time so just did not listen, or care. They just care about getting through their long list.” (Lismore)

“But they only have ten minutes to digest it on the morning of the case. When I was there they had about 50 people, he was flicking through things trying to read them before they presented the next one. It was ridiculous. I felt like I was in a circus.”

Clients who had lodged an application under the Strata Division also expressed concern about the level of expertise Members had to give advice or make an order. They felt that their cases were especially complex, and often required the specialist knowledge such as an architect or builder.

‘GET IT SORTED’

The DVD ‘Get it Sorted’ was welcomed as a way of giving people a better idea of what to expect at the Tribunal. Although none of the participants could remember seeing it, they all thought it was a good idea.

It is important, however, that such material is available to people well before their hearing. Whilst it does no harm to play the DVD in the waiting room, at that point in time it is probably much too late. Clients feel that it is important that materials like this should be available as a download from the CTTT website, and/or sent to them (upon request) free of charge. CTTT offices and libraries were also mentioned as places they should be available.

The main issue for the applicants and respondents is to publicise what information is available to help them.

“What good is a DVD if no-one knows about it?”

But it is essential the DVD shows it as it really is, and depicts real life scenarios and people.

“I don’t want a DVD that is all nice smiling actors. It has to be real”.

6. Orders and enactments

Whilst most clients felt that they understood the order that was made, the how and when the order would be carried out was often less clear. Indeed, a number of the clients talked about their confusion once the order had been given...

“I had no idea when I had to pay it, or who I had to pay it to. Luckily one of the security guards helped me.”

“I walked away and thought ‘Well I won, but how do I get it to happen?’. Now months later the aerial is still on my roof, the order was that he had to take it down. I don’t know what to do.”

It was felt that enforcement options are not adequately explained to clients at the hearing; indeed, many seemed totally unaware of what these are. Similarly, many parties said they were not aware that they can request a statement of reasons for the decision. While it is unlikely that the clients are not being given the information, it would appear the stress of the hearing may be impinging on their ability to take in all the information.

Of note, some said they were dissatisfied with the order but thought that the decision made was final and binding and that there was no recourse open to them for appeal. There appears to be a general lack of awareness and understanding of that there is an avenue to apply for a rehearing or appeal the Tribunal’s decision.

Asked whether they would have been likely to appeal the decision (if they had known that they could), most participants were adamant that they would not have done so. The predominant reason given was time and cost.

Some clients picked up their order straight after the hearing while other received it in the mail. The option of email rather than standard post was explored, and while one Parramatta tenants group strongly favoured getting a hard copy (because it is more official), other group participants in Parramatta and Lismore said they would be happy to receive the order by email.

7. Overall experience

The overwhelming take-out from discussions with clients around the overall process was the level of uncertainty that existed around CTTT functions and processes. The major surprises for clients were:

- The time it all takes from application to resolution;
- Pressure to participate in conciliation, and that a conciliator was not always present to facilitate the process;
- Hearings do not always take place on the day scheduled;
- Group hearings, and having to stand up and speak in front of a group of people, including members of the public unrelated to your case;
- Uncertainty around what would happen next after orders had been made.

Common complaints in relation to the overall process included:

- Being told to arrive at a certain time and the Tribunal Member not turning up until 1-2 hours later.
- The apparent lack of concern that the client's time is valuable and not caring if the case is not heard on the day scheduled.
- Lack of recognition that it is a stressful situation for clients. Many spoke of sleepless nights before the hearing. This stress was further exacerbated if the hearing was deferred to another day.
- The perception that outcomes of the Tribunal are more strongly connected to the level of comfort and experience that people have with the process, than on the actual merits of their case. This seems unfair, and adversely impacts on the credibility of the Tribunal's processes and its findings.

At the beginning of the group, each of the participants was asked to write down a couple of words to describe the CTTT and their experience. All in all, these reflect the lack of certainty around the process, the sense that decisions are rushed, and the depth of emotions involved. The table overleaf presents the comments participants made (grouped into key themes).

Negative	Positive/Neutral
<p>Unfair Unreasonable Illegal Unprofessional Biased Biased Biased Biased Process weighted in favour of system Not a fair trial – other person did not swear under oath Disappointing Dissatisfied Unreasonable Unfair Corrupt Putting a lawyer up against us is unfair</p>	<p>Fair Fair Wisdom Relatively satisfactory</p>
<p>Legalistic Complicated Should remember clients are not legalists</p>	
<p>Court hearing stressful (judge) Frustrating Frustrating Stressful Confronting Very personal confronting process Anxious Unsupportive</p>	
<p>Waste of my time Too slow Costs money, costly of my time Lots of waiting Lots of phone calls, paperwork Time consuming Time costly Time consuming Very long Fair, but the long way round to get a result Needs upgrading Cumbersome Hard to know what to present</p>	<p>Efficient Efficient Very helpful with information and how to proceed Effective</p>



Negative	Positive/Neutral
Uninformed	
Do not listen Rushed Registrar Tribunal member unqualified Uninformed Member impatient Arbitrator to do a better job, not to be driven by time Member did not use supporting documents Non committal in mediation process	Guard and reception staff very helpful in finalising matter Friendly (negotiator) Good Friendly (negotiator) Have a difficult task Sensible

Appendix A: Sample 'Ten Top Tips'

A note to the client:

The following examples of 'Ten Top Tips' are intended as an easily digestible summary of the key issues that clients should keep in mind at key stages of process (i.e. 'Lodging an Application', 'Preparing for Tribunal', and 'On the Day'. It should complement more detailed information regarding the role and responsibilities of the CTTT and key processes, but should not attempt to replace it. Ipsos recommends that the tips are included as part of a broader 'Guide to the CTTT', as well as on separate fact sheets that can be downloaded from the CTTT website.

Ten Top Tips for Lodging an Application

- (1) Before you lodge an application, it is a good idea to familiarise yourself with the role and responsibilities of the CTTT and key steps involved in their dispute resolution processes. Call or drop into the nearest Fair Trading Centre, or one of the organisations listed below, for information and advice. Alternatively, have a look at the CTTT website: www.cttt.nsw.gov.au.
- (2) If your dispute is related to residential building work, the law states that you must try to resolve the issue with the help of a Fair Trading Centre before you can lodge an application with the CTTT. Thus if you haven't already, you should contact the Office of Fair Trading.
- (3) Find out if there are any time limits that may apply for lodging your application, as well as the upper monetary value you can apply for. Usually these limits are stated on the application form. If you are unsure, contact a Fair Trading Centre on 133 220 for more information.
- (4) If you decide to lodge an application with the CTTT, you will need to fill in the relevant application form. There are different application forms for different types of claims. Copies can be obtained from any CTTT registry, any Local Court Registry in NSW or any Fair Trading Centre in NSW. Some applications may also be lodged online at the CTTT website: www.cttt.nsw.gov.au
- (5) Write neatly on the form in blue or black pen.
- (6) When filling in the form, make sure you fill in your personal details and the name of the respondent correctly.
 - **The applicant:** You should provide your full name as shown on the contract, tenancy agreement, receipt, invoice etc. If you are making an application on behalf of a corporation or business, you must also include the name of the corporation or business, the Australian Company Number and the registered business address.
 - **The respondent:** The term 'respondent' refers to the other party involved in the dispute. Please note that in most cases (except for residential tenancy applications) the Tribunal can only make orders against a legal entity (that is, a registered company or business). Hence, you need to make sure that the name you list on the application form is the *registered* company or business name. As this may differ from the trading name used on receipts or invoices, please check by searching the ASIC National Names Index website: www.asic.gov.au or contact the Office of Fair Trading on 133 220 for more information.

- (7) On your application, you will need to specify the type of orders you want the Tribunal to make, including the approximate dollar amount you are claiming and the reasons why. The term ‘order’ refers to the type of outcome you are wanting, such as an order for the other party to pay you a certain amount of money, or an order for them to fix or replace something that’s faulty. For more information about the kinds of orders the Tribunal can make, refer to the *Guide to the CTTT* or contact the Office of Fair Trading on 133 220 for more information.
- (8) It is important to know that a copy of the application form will be forwarded to the other party so that they can prepare for the hearing. Therefore, make sure that you do not include confidential information on the application form that you would want the other party to know. Also, notify the CTTT in writing if you would like your personal details (i.e. home address and phone number) to be kept private.
- (9) Once you have completed and checked over the application form, return it with the relevant fee by mail to the Tribunal Registrar or in person to a Tribunal Register or Court. It costs \$31 to make an application to the Tribunal, or \$5 if you are on a government pension, benefit, Austudy, or Abstudy (attach proof of this to your application).
- (10) Keep a copy of your application and all supporting information for your records.

Ten Top Tips for Preparing Your Case for Tribunal

- (1) If you haven't done so already, it is a good idea to set up a file for your case, in which you can safely store copies of the application form, Notice of Conciliation and Hearing, your supporting documents, and any other information you have collected along the way (including these Ten Top Tips).
- (2) Prepare your arguments. Write down, in simple point form, all the main arguments you wish to make to the Tribunal. Stick to the facts, and focus on what is important to your case.
- (3) At Tribunal, you will be asked to provide evidence to support your case. Evidence can include:
 - Written documents, such as quotes, contracts, receipts, invoices, repair bills, tenancy agreements, letters between you and the other party, witness statements etc.
 - Photographs showing the faults in an item or work that has not been completed.
- (4) As each case is different, there are no fixed rules regarding the number and type of documents that you should bring with you. If you are confused about the type of evidence you need to support your case, it may be useful to have a look at the AUSTlii website www.austlii.edu.au for details of similar cases that have been brought before the CTTT, including the evidence that was presented, and the outcomes that were achieved.
- (5) Make two photocopies of each of the documents you wish to submit, and bring these along to the hearing – one set will be given to the Tribunal, one the other party and one will be for you.
- (6) Before the date of your hearing, familiarise yourself with what happens at the Tribunal. Read through the Consumer Guide to CTTT. Go along, if you can, to the Tribunal venue to observe other hearings in action. You can also request a copy of the DVD 'Get it Sorted'. This shows how the CTTT can assist you to resolve your dispute and what you should do to get the best possible outcome.
- (7) Practice telling your story out loud to a friend or family member, and ask them for feedback. Stay calm and speak clearly. Stick to the facts.
- (8) Put your documents in order so you are ready to show them to the other party or to the Tribunal member at the right time to support your argument.

- (9)** If the hearing is set for a day or time that you cannot make, you should write to the Tribunal before the hearing and provide an explanation of why you cannot be there. If you wanted to adjourn the hearing to another date, you must write to or fax the Registrar as soon as possible, with an explanation of why you cannot be there. Please note that work and training commitments are generally not accepted as reasons for an adjournment. If you are sick, you must provide a medical certificate. If an adjournment is not granted, you must attend. If you don't, the Tribunal may hear the application and make a decision without hearing your side of the story.
- (10)** If you decide to withdraw your application, you must notify the Registrar in writing. You should also notify the other party before the hearing.

Ten Top Tips for What to Do on the Day of your Hearing

- (1) Dress neatly.
- (2) Allow plenty of time to get there. If you are running late for your hearing, it is very important that you call the Tribunal and tell them you are on your way. Otherwise the case may be over by the time you get there.
- (3) Bring your file with all the documentation you have to support your case with you on the day. Ensure you have three copies all of the evidence you wish to submit – one set will be given to the Tribunal, one the other party and one will be for you. It's also a good idea to bring a pen and notepaper.
- (4) Report to security upon your arrival. Your name will be marked off a roll and you will be directed into the hearing room.
- (5) If you are scheduled for conciliation and hearing, the Member will ask you to try and reach an agreement in private with the other party. To begin with, each person should calmly state their case (starting with the person who lodged the application), and provide the other party with copies of the evidence they have brought to support their arguments. Listening carefully to the other party's point of view and discussing possible solutions can often lead to an outcome that you will both find acceptable.
- (6) At most hearings, a conciliator is available to help you, if you need it. If at any time you feel threatened by the other party, you should let the conciliator or a security officer know.
- (7) If you reach an agreement, you should write it down and sign it. If there is a conciliator present, you should let him or her know. Otherwise, take your written agreement to the Member in the hearing room. He or she will write an order with your agreement, and the case will be closed.
- (8) If you cannot reach an agreement during conciliation, you have the right to have your case heard by a Member. The Tribunal may decide to hear your case on the day, or set it to be heard on another day.
- (9) At the hearing, both parties will be asked to present their case in front of the Member. The Member will tell you when it's your turn to speak. Speak clearly and calmly, and be guided by what the member asks you to do. Do not interrupt the other party whilst they are telling their side of the story. However, you should take notes of anything that is unclear, as later on you will have an opportunity to ask questions.

(10) In some circumstances, an order may be changed or cancelled by applying for a ‘rehearing’. To do this, you must fill out a ‘Rehearing form’. This form asks you to prove:

- the result would be different if a rehearing were held AND
- the decision was not fair and equitable, or
- the decision was against the weight of evidence, or
- evidence is now available that was not available at the time of the hearing.

You must apply within 14 days of the date you received a notice of the order, or 14 days after receiving written reasons for a decision.



Appendix B: Discussion guides

Discussion Guide

Tenancy, General and Motor Vehicle Clients

Thank you for coming along....Ipsos is a leading Australian market and social research firm and is currently conducting research with for the CTTT.

It's very, very important that you know we operate according to the Privacy principles designed for the market research industry. We are running a number of groups. All the information that is provided in a group, whether from you or someone else, is aggregated whole – the 'bigger picture'. The report does not identify anyone.

A couple of key points:

- There is no 'right' or 'wrong' answer in a session like this
- Please all make sure you join in the discussion – I am interested in everyone's view
- I am recording and videoing this
- There is a viewing facility in place here (rationale behind this)...where relevant
- It's very, very important that you know we operate according to the Privacy principles designed for the market research industry. We are running a number of groups. All the information that is provided in a group, whether from you or someone else, is aggregated whole – the 'bigger picture'. The report does not identify anyone.
- Please you turn off/to silent your mobile phone, unless you absolutely need to.

The group will go for approximately 1.5 hours.

Firstly I must stress this discussion is about the process how much information you needed, how well you were prepared, how you felt in the hearing about the process and surroundings etc,

It is not about the issue being dealt with or the outcome. We are not talking about the fairness or otherwise of the experience. I hope you appreciate If you get side tracked I will have to ask you to stop and get the discussion back on track.

Introduction

Around the table

Firstly tell us a bit about yourself.

Name, family status that is married with kids etc, what you do for a living and whether at the last hearing at CTTT you were the applicant or respondent.

Before we start I want you to write down on the paper in front of you the first words that come to mind when you think back of the whole experience of the your CTTT hearing (remember it is not how you feel about the outcome – it is about the whole process)

Thanks, just keep those for now we will discuss later what you wrote down.

Segment 1: Pre lodgment Process

Think back to your own particular instance with CTTT when you decided to either pursue an issue or you were notified that you are the respondent in a claim was being made against you.

1. Before you made an application /or when you received notification did you try to get any information about the Tribunal? What were the things that you were unaware of or had limited knowledge about? Where did you go for the information? (prompt to see if they call CTTT before OFT)
2. How did you find out whom to go to? What were your **main sources of information**? Why?
3. What sort of information did you look for? What sort of questions did you ask? (prompt for common questions, requests for application forms, help in filling in forms, information on fees, requests for additional information web/print)
4. What information were you provided with?
5. How good or bad was the information you received from < each >? Why?
6. Were you referred to anyone else for more information on the Tribunal process? Who? (prompt for FTIC, FTC, website, publications, applications forms)

Segment 2: Lodging an Application/receiving a notice

Show cover.

1. Can you recall when you first had to fill in/ or read this form? What were your thoughts/fears/impressions?
2. What in particular can you remember that you found a bit difficult or confusing?

Hand out forms. Give 5 mins to review form.

1. First comments.
2. Anything you found confusing?

3. Probe– do you think you really understood the role of the CTTT from this application form? Why not?
4. When you first read it what did “orders the tribunal can make” mean to you.
5. When you sent in the form (application) did you provide all the necessary documentation with the application or were you asked for more? What was it that you missed providing?
6. At the time did you provide any feedback to CTTT about the application form? What was the feedback
7. Have you got any suggestions to improve the current application forms?
8. Did you know that you could lodge Tribunal applications online?
9. Did you lodge an application online? If not, why?
- 10.If you have to lodge an application with the Tribunal, will you consider lodging it online? If not, why?
- 11.Did you provide any feedback to CTTT about lodging online (good or bad)?
- 12.These are some of the services available on the CTTT website:
 - Lodge an application online
 - Download application forms
 - Information on Tribunal processes
 - Hearing information
 - Chairperson’s Directions
 - Legislation
 - Tribunal decisions
 - Corporate publications
 - Schedule of FeesHave you used any of these services? If not, why?

Segment 3: Conciliation Process

1. Were you aware that you would be required to participate in conciliation prior to your hearing?
2. Did you receive any information about conciliation prior to attending the Tribunal?
3. Did you understand why you were required to participate in conciliation?
4. Did you understand the role of the Conciliator?
5. How could the process of conciliation be improved?
6. When you arrived at the Tribunal was the process adequately explained to you?
7. How did you expect the conciliation process to work?
8. Did you feel that it was an effective process? If not, why? If so, why?
9. What information would have helped you to actively participate in the conciliation process?
10. What assisted you to resolve your dispute in conciliation?

11. How would you explain to a friend how to participate effectively in the conciliation process?
12. What do you think are the common areas of misunderstanding of the conciliation process?
13. How could the Tribunal improve people's understanding of the process?

Segment 4: Hearing Process

1. How did you feel when you first arrived at the hearing? Why
2. How did you feel in the hearing while waiting for your turn?
3. How well prepared were you when you came for a hearing? What documents did you bring?
4. When at the hearing at anytime did you think – 'I wish they had told me that before' – what was it?
5. How did you feel while at the hearing during your turn?
6. What did you expect the hearing to be like?
7. Are you aware of the "Get it sorted" video? Have you seen it? Do you think it is helpful?
8. Is there anything else the Tribunal can do to improve client understanding of the hearing process? Describe.

Segment 5: Orders and enforcement actions

1. Was the order explained to you at the hearing?
2. Did you understand the Tribunal orders?
3. Did you understand the orders the Tribunal made?
4. How did you receive the orders? Would you prefer to receive them another way? (Prompt for email and any issues they may have with email)?
5. Were enforcement options explained to you at the hearing? If not, how did you get to know about enforcement options?
6. Is there a better way to provide information regarding enforcement orders to you? If so, how?
7. Do you think parties are aware that they can request a statement of reasons?
8. Have you asked for written reasons for the decisions made? Were they brief reasons or lengthy/comprehensive reasons?

Segment 6: Decision Satisfaction/Dissatisfaction

1. Were you satisfied with the outcome of the Tribunal case?
2. Did you understand why the orders were made?
3. Did you advise the Tribunal of your dissatisfaction of the hearing process or the Tribunal decision?

4. Did you know that you could apply for a rehearing or appeal the Tribunal's decision?
5. What information was provided to you about the rehearing/appeal options?

Segment 7: Total Tribunal Experience

1. How do you think we can increase awareness of the Tribunal's role?
2. From your experience, is there any information or services provided by the CTTT which could be provided in a better way? (More convenient, more effective, quicker, easier, simpler?)
3. How accessible do you think the Tribunal is to the parties?
7. If you needed to get in contact with /when you contacted the Tribunal:
 - How did you/would you find out how to contact the CTTT? Why?
 - In what way did you/would you contact the CTTT? Why?
 - How would you prefer to contact the CTTT?
4. Is there some kind of resource that CTTT could have to help parties prepare better for the Tribunal process?
5. What is your opinion of the existing Tribunal publications and information available now (in print and on website)? (eg Get it sorted video, We're talking your language DVD - 7 languages)
6. How would you describe the whole experience? (return to the comments written at the start of the session)

CLOSING

1. Brief summary of discussion.
2. Does anyone have any final comments about anything that was discussed?
3. Thank you for your time!! Please accept this as a small token of appreciation for your time and your views tonight.

Provide incentive and close

Discussion Guide Strata Clients

Thank you for coming along....Ipsos is a leading Australian market and social research firm and is currently conducting research with for the CTTT.

It's very, very important that you know we operate according to the Privacy principles designed for the market research industry. We are running a number of groups. All the information that is provided in a group, whether from you or someone else, is aggregated whole – the 'bigger picture'. The report does not identify anyone.

A couple of key points:

- There is no 'right' or 'wrong' answer in a session like this
- Please all make sure you join in the discussion – I am interested in everyone's view
- I am recording and videoing this – but these are for research purposes only
- There is a viewing facility in place here (rationale behind this)...where relevant
- It's very, very important that you know we operate according to the Privacy principles designed for the market research industry. We are running a number of groups. All the information that is provided in a group, whether from you or someone else, is aggregated whole – the 'bigger picture'. The report does not identify anyone.
- Please you turn off/to silent your mobile phone, unless you absolutely need to.

The group will go for approximately 1.5 hours.

Firstly I must stress this discussion is about the process how much information you needed, how well you were prepared, how you felt in the hearing about the process and surroundings etc,

It is not about the issue being dealt with or the outcome. We are not talking about the fairness or otherwise of the experience. I hope you appreciate If you get side tracked I will have to ask you to stop and get the discussion back on track.

[Client– Please note the following guide has been developed to reflect the general flow of the session, which is qualitative in nature and specifically meant to follow the spontaneous responses of participants. As such, while most of the lines of questioning will be covered, they may be covered at different points in time compared to that which is reflected in this guide. Further, some questions will not



exactly be covered as outlined, and new questions will definitely arise that are not included on this document.]

Introduction

Around the table

Firstly tell us a bit about yourself.

Name, family status that is married with kids etc, what you do for a living and whether at the last hearing at CTTT you were the applicant or respondent.

Around the table

Before we start I want you to write down on the paper in front of you the first words that come to mind when you think back of the whole experience of the your CTTT hearing (remember it is not how you feel about the outcome – it is about the whole process)

Thanks, just keep those for now we will discuss later what you wrote down.

Segment 1: Pre lodgment Process

Think back to your own particular instance with CTTT when you decided to either pursue an issue or you were notified that you are the respondent in a claim was being made against you.

1. Before you made an application /or when you received notification did you try to get any information about the Tribunal? What were the things that you were unaware of or had limited knowledge about? Where did you go for the information? (prompt to see if they call CTTT before OFT)
2. How did you find out whom to go to? What were your **main sources of information**? Why?
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Segment 2: Lodging an Application/receiving a notice

Show cover.

3. Can you recall when you first had to fill in/ or read this form? What were your thoughts/fears/impressions?
4. What in particular can you remember that you found a bit difficult or confusing?

Hand out forms. Give 5 mins to review form.

13. First comments.
14. Anything you found confusing?
15. Probe– do you think you really understood the role of the CTTT from this application form? Why not?
16. When you first read the application, was it clear to you what orders you were seeking? Was the information provided on the form sufficient to know what orders to make?
17. When you sent in the form (application) did you provide all the necessary documentation with the application or were you asked for more? What was it that you missed providing?
18. At the time did you provide any feedback to CTTT about the application form? What was the feedback
19. Have you got any suggestions to improve the current application forms?
20. These are some of the services available on the CTTT website:
 - Download application forms
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 - Hearing information
 - Chairperson’s Directions
 - Legislation
 - Tribunal decisions
 - Corporate publications
 - Schedule of FeesHave you used any of these services? If not, why?
21. Are you aware of the “Get it sorted” video? Have you seen it? Do you think it is helpful?

Segment 3: Adjudication Process

1. When you lodged your application for “an Order by an Adjudicator”, how well did you understand the process?
2. How well prepared were you when you lodged the application? Did you know you had to provide submissions to the Tribunal and that the other party would receive a copy of your submission?
3. Did you know that the adjudication process would not be finalised until the expiration of the submission period?
4. When you lodged your application, did you know that the adjudicator will consider the application and all the submissions provided by the parties in chambers?
5. Is there anything else the Tribunal can do to improve client understanding of the adjudication process? Describe.

Segment 4: Hearing Process

1. Were you aware that you were required to attempt mediation through the Strata Mediation Unit of the Office of Fair Trading prior to the Tribunal hearing your matter?
2. How did you feel when you first arrived at the hearing? Why
3. How did you feel in the hearing while waiting for your turn?
4. How well prepared were you when you came for a hearing? What documents did you bring?
5. When at the hearing at anytime did you think - 'I wish they had told me that before' - what was it?
6. How did you feel while at the hearing during your turn?
7. What did you expect the hearing to be like?
8. Is there anything else the Tribunal can do to improve client understanding of the hearing process? Describe.

Segment 5: Orders and enforcement actions

9. If you had a hearing, was the final order explained to you at hearing?
10. Did you understand the orders the Tribunal made?
11. How did you receive the orders? Would you prefer to receive them another way? (Prompt for email and any issues they may have with email)?
12. Were enforcement options explained to you at the hearing? If not, how did you get to know about enforcement options?
13. Is there a better way to provide information regarding enforcement orders to you? If so, how?

Segment 6: Decision Satisfaction/Dissatisfaction

6. Were you satisfied with the outcome of the case?
7. Did you understand why the orders were made?
8. Did you advise the Tribunal of your dissatisfaction of the hearing process or the Tribunal decision?
9. Did you know that you could appeal the Tribunal's decision?
10. What information was provided to you about the appeal options?

Segment 7: Total Tribunal Experience

1. How do you think we can increase awareness of the Tribunal's role?
2. From your experience, is there any information or services provided by the CTTT which could be provided in a better way? (More convenient, more effective, quicker, easier, simpler?)
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CLOSING

4. Brief summary of discussion.
5. Does anyone have any final comments about anything that was discussed?
6. Thank you for your time!! Please accept this as a small token of appreciation for your time and your views tonight.