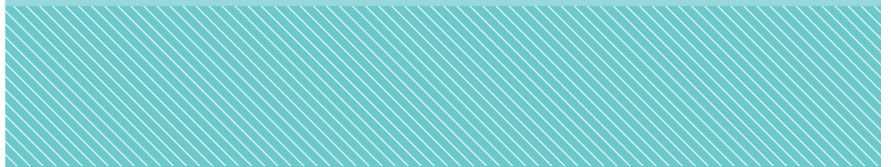




CHAPTER 4

OUR USERS AND OUR PARTNERS



OUR USERS

The principal users of the Tribunal are parties to Tribunal proceedings – individuals, organisations, government departments and agencies – and their representatives. This section reports on how the Tribunal worked to meet the goal:

To provide a high-quality national merits review process that contributes to community confidence in a system of open and accountable government.

Practice and procedure

The Tribunal monitors the operation of the review process to ensure it continues to provide a mechanism of review that is fair, just, economical, informal and quick. Significant developments in relation to practice and procedure issues during the reporting period follow.

The Practice and Procedure Committee, supported by staff from the Policy and Research Section, considers ways in which practice and procedure can be improved to promote the effective and timely disposition of applications lodged with the Tribunal. The Committee met once during the year, in March 2010.

Case management

The Tribunal began a detailed examination of its approach to case management in 2009–10, prompted in particular by concerns about the timeliness of the review process in certain types of cases. This focus on case management is consistent with a recommendation made in the report of the Access to Justice Taskforce, *A Strategic Framework for Access to Justice in the Federal Civil Justice System*, released by the Attorney-General in September 2009. The Taskforce noted that the Tribunal has successful case management processes that promote early resolution in a large proportion of cases, particularly through the use of conferences. However, there appears to be scope to further improve case management for the proportion of cases that proceed to hearing.



Deputy President Hack talking about the Tribunal's renewed focus on case management, at the national staff conference.

Case management was a major theme at the Tribunal's National Conference for members and senior staff held in March 2010, as well as the conference for Tribunal staff held in June 2010. The conferences offered the opportunity for members and staff to work together to identify similarities and differences in approach, areas of concern and ideas for improvements.

Following the conference in March, registries have been actively reviewing their case management practices with a view to addressing any issues and identifying potential reforms. A range of monitoring mechanisms have also been implemented nationally, including regular reporting on the time current cases have spent in each stage of the review process and file audits of older applications.

Proposals for changes to case management processes will be developed further and presented to the Practice and Procedure Committee for consideration. The Tribunal will work with regular users and other stakeholders in making improvements.

Review of regulations

The Tribunal has reviewed the *Administrative Appeals Tribunal Regulations 1976* and identified a number of areas in which changes or improvements could be made. During 2009–10 the Tribunal worked closely with the Attorney-General's Department in the development of the proposed amendments.

Review of summons procedures

During the reporting year, the Tribunal continued the project to streamline procedures for producing documents under a summons, which are issued most frequently in the workers' compensation jurisdiction. The Tribunal's aim is to establish a nationally consistent process so that appearances before a Tribunal member about a summons will generally be limited to disputes about the production of, or access to, the documents that are the subject of the summons.

The Tribunal made changes to its electronic case management system that it will assist in administering a nationally consistent summons procedure. The project includes developing a practice direction for summonses, and will continue in 2010–11.

Guidelines relating to expert evidence

The Tribunal has been working on guidelines relating to expert evidence and concurrent evidence and expects to finalise them in the next reporting period.

Taxation of costs

In limited circumstances, the Tribunal can order a party to pay the costs incurred by another party. If the parties are unable to agree on the amount of the costs, the Tribunal may tax them. The Tribunal has been reviewing its procedures for taxing costs and developed a draft Practice Direction relating to Taxation of Costs. Finalisation of the practice direction was deferred pending consideration of a proposed fee regime for taxing costs. The Tribunal expects to implement the practice direction in 2010–11.

Alternative dispute resolution

The Alternative Dispute Resolution Committee oversees and reviews the Tribunal's use of alternative dispute resolution processes. The committee met in March 2010.

The Tribunal worked during the year to raise awareness of the alternative dispute resolution processes that it has available, and encouraged their use. Members and staff spoke at a number of external conferences and seminars about the Tribunal's approach

to alternative dispute resolution. Case management, which includes the use of alternative dispute resolution, was the focus of the Tribunal's conferences for members and staff in 2010.

The Tribunal was also an active member of the ADR Inter-Agency Group, a forum for Australian Government agencies which encourages sharing information and training resources for alternative dispute resolution.

Tax scheme matters

Over the decade from 1999, the Tribunal received more than 12,000 applications for review of decisions relating to some 120 different tax schemes or types of tax arrangements. The Tribunal developed and employed processes designed to manage this large number of applications.

At the end of the reporting period, approximately 250 applications remained outstanding, 81 percent fewer than the number outstanding at 30 June 2009. The Tribunal expects to finalise the bulk of the remaining applications in the next reporting period.

Communication with Tribunal users

The Tribunal communicates with its users in a variety of ways to assist their understanding of its role and procedures, and how it can help them. To this end, the Tribunal's range of written documents and other information materials are developed and designed to suit a variety of needs.

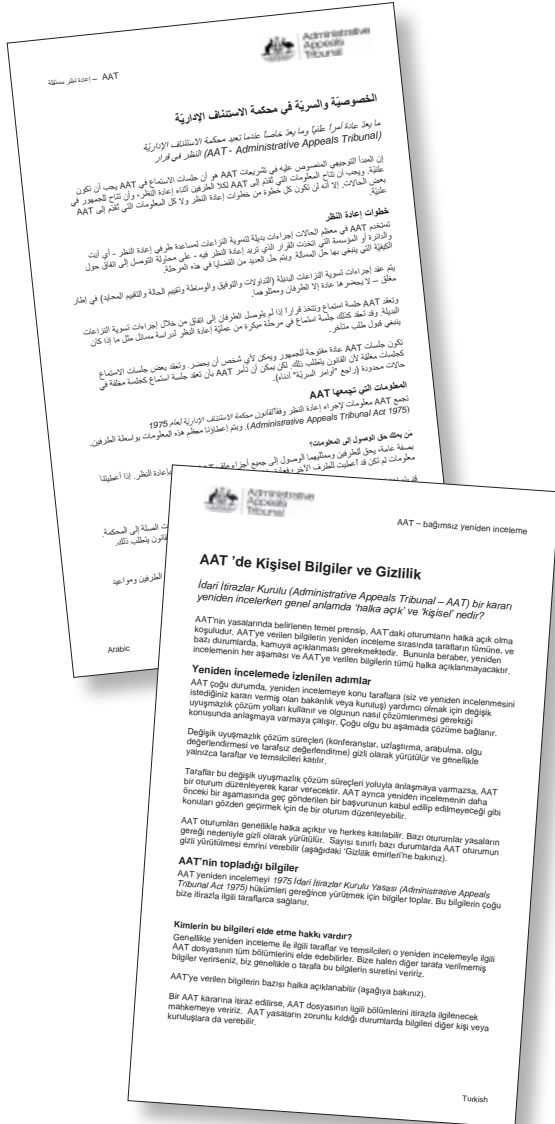
Publications and website

Following a review of its communications, the Tribunal continues the upgrade of its information products. The Tribunal's brochures aimed at self-represented parties — rewritten, redesigned and illustrated — and a new fact sheet relating to privacy and confidentiality at the Tribunal were launched early in 2010 and are available in print and on the website. The Tribunal is working on a further brochure and additional fact sheets.

The Tribunal is aware that many of its users speak a language other than English at home, and has therefore arranged for the brochures and fact sheets to be translated into up to 20

of the Tribunal's most frequently requested languages. These translations will be added to the website in the first half of 2010-11.

Templates for a new design for the Tribunal web pages are in development, and implementation is planned for 2010-11. The new design has been tested to ensure that it is accessible, and will give the website a fresh and clean look.



Many of the Tribunal's information documents have been translated, for example the fact sheet, *Privacy and Confidentiality at the AAT*, is available in the 20 most frequently requested languages at the Tribunal.

Regular user forums and meetings with users

As part of its commitment to being an open and transparent organisation, the Tribunal met with regular users and other stakeholders in a range of settings during 2009-10.

District registries arrange regular liaison meetings with departments, agencies and other decision-makers, private legal practitioners, community legal centres and legal aid bodies who appear regularly before the Tribunal in that location. Some registries hold meetings with users from all jurisdictions while others arrange jurisdiction-specific meetings. The meetings are a forum in which the Tribunal can inform users of impending and proposed changes to practice and procedure and users can give feedback on the service the Tribunal is providing.

The Tribunal met with senior representatives of government agencies to discuss operational issues arising in the review process. These agencies included the Australian Taxation Office, Centrelink, the Child Support Agency, the Department of Human Services and Comcare.

In some registries, the Tribunal convened liaison meetings with representatives of criminal justice agencies to discuss operational issues arising in relation to the exercise by Tribunal members of powers to issue warrants and other authorisations.

TRIBUNAL PARTNERS

The Tribunal partners with organisations and individuals in relationships that go beyond participation in tribunal proceedings. Such partners may be involved in administrative review, or have a general interest in tribunals and their work. Some tribunals and other agencies have entered arrangements with the Tribunal for sharing resources.

This section reports on the Tribunal's work and activities in meeting the goal:

To cooperate with government, other tribunals, the legal profession and other interested groups and to continue to forge links with international counterparts.

Developing and enhancing links with government, other tribunals, individuals and organisations

The Tribunal maintained and developed its relationships with a range of departments and agencies, organisations and individuals during 2009–10.

Liaison with the Attorney-General's Department, other departments and agencies

The Tribunal worked closely with the Attorney-General's Department during the reporting year on a wide range of issues relating to the Tribunal and its operations, including the Tribunal's jurisdiction, workload and budget.

The Tribunal also had contact with a number of other departments and agencies about issues and proposals that concern it. These included the Department of Education, Employment and Workplace Relations, the Department of Innovation, Industry, Science and Research and the Department of Prime Minister and Cabinet.

Administrative Review Council

As President of the Tribunal, Justice Downes is an ex officio member of the Administrative Review Council. The Council's role is to monitor, and provide advice to government on the operation of the Commonwealth system of administrative law. The President attended meetings and participated in the activities of the ARC during the reporting year.

For further information relating to the Council and its operations, please refer to the Council's annual report.

Council of Australasian Tribunals

The Council of Australasian Tribunals (COAT) is an association for tribunals and those who work in, or have an interest in, tribunals in Australia and New Zealand. It consists of a National Council with local chapters, and was established to facilitate discussion and collaboration on matters relevant to tribunals.

The Tribunal continued its active involvement in the Council during the year, receiving the benefits that membership offers, including

shared training, access to the COAT *Practice Manual* and networking opportunities.

Tribunal members and staff were active contributors to the work of the Council. Deputy President Jarvis is the immediate past Convenor of the South Australian Chapter and continues as a member of that chapter's committee. Deputy President Hack served on the Queensland committee throughout the year. Senior Member Bell was a member of the Executive Committee of the New South Wales Chapter during part of 2009–10. Senior Member Hastwell served on the Committee of the South Australian Chapter, and Member Perton and District Registrar Woodford were members of the committee of the Victorian Chapter in 2009–10.

Senior Member Britton gave a presentation to the Seventh Annual NSW COAT Conference (see Appendix 9). Other members and staff were members of local chapters and participated in chapter activities.

Cooperation with other tribunals and courts

Commonwealth tribunals and courts

The Commonwealth merits review tribunals — the Administrative Appeals Tribunal, Migration Review Tribunal, Refugee Review Tribunal, Social Security Appeals Tribunal and the Veterans' Review Board — maintained their cooperative relationships during 2009–10. Liaison during the year included pursuing opportunities for achieving efficiencies through cooperative action, and ongoing communication between officers of the tribunals about matters such as staff vacancies, and learning and development activities.

The Tribunal continued arrangements with courts and other tribunals for the provision of facilities and services in 2009–10, details of which are described below.

Federal Court of Australia

The Tribunal and the Federal Court share a joint registry in Hobart. Staff of the Court provide registry and other services for the Tribunal.

Migration Review Tribunal/Refugee Review Tribunal

The Migration Review Tribunal and Refugee Review Tribunal have registries in Melbourne and Sydney. Administrative Appeals Tribunal staff in Adelaide, Brisbane and Perth receive applications and handle enquiries on behalf of the Migration Review Tribunal and Refugee Review Tribunal. The Tribunal also continued to provide accommodation and hearing room facilities for Migration Review Tribunal and Refugee Review Tribunal members in 2009–10, including hearing room assistance and videoconferencing facilities.

National Native Title Tribunal

The Tribunal provided additional accommodation to the National Native Title Tribunal at its Adelaide premises.

Veterans' Review Board

The Tribunal made facilities available in its registries in Adelaide, Canberra and Perth for the Veterans' Review Board to conduct hearings.

International arrangements and delegations*International Association of Supreme Administrative Jurisdictions*

The International Association of Supreme Administrative Jurisdictions (IASAJ) is an organisation for bodies that are empowered to adjudicate public law disputes. The association's purpose is to promote the exchange of ideas and experiences between jurisdictions. The IASAJ was founded in 1983, and the Tribunal has been a member since 2004.

The Hon. Michael Black AC, then Chief Justice of the Federal Court of Australia, and Justice Downes became co-presidents of the association in 2007.

The Tribunal and the Federal Court of Australia co-hosted the association's 10th congress in March 2010. The main theme of the congress was review of administrative decisions of government by administrative courts and tribunals. More than 100 delegates

from 50 countries exchanged ideas and information on administrative law.

Some of the international judges attending the congress also attended the AAT National Conference, held immediately before the IASAJ conference. Mr Jean-Marc Sauvé, Vice-President of the Council of State and Vice-President of the IASAJ (France), Lord Justice Robert Carnwath CVO, Senior President of Tribunals (United Kingdom) and Mrs Marion Eckertz-Höfer, President of the Federal Administrative Court of Germany each contributed to the Tribunal's understanding of its international counterparts and their roles.

Visiting delegations

The Tribunal regularly hosts visitors from international courts and tribunals, and other organisations interested in gathering information on the Tribunal and its operations. In 2009–10 these visitors included delegations from the Indian Securities Appellate Tribunal, the Korean Anti-Corruption and Human Rights Commission, and the Shaanxi Bureau of Letters and Calls. The Tribunal also hosted a delegation as part of the Australia–China Legal Profession Development Program.

Better understanding of the Tribunal and its role

The Tribunal continued its program of helping to promote a better understanding of the Tribunal and its role in administrative law.

The Obligation to Assist: Model Litigants in AAT Proceedings

The Obligation to Assist: Model Litigants in Administrative Appeals Tribunal Proceedings Seminar, held in Canberra on 26 August 2009, was designed to clarify and promote the obligations on decision-makers in proceedings before the Tribunal. Decision-makers have an obligation to assist the Tribunal under section 33(1AA) of the Administrative Appeals Tribunal Act, and government agencies must also comply with the *Legal Services Directions 2005*, including the model litigant rules, in the conduct of proceedings before the Tribunal.

Stuart Pilkinton, President of the ACT Bar Association, introduced the seminar, and Justice Downes introduced the issues.

The Attorney-General, the Hon. Robert McClelland MP, delivered the keynote address. The seminar brought together a wide range of tribunal members, agency representatives and legal practitioners who approached the topic from a variety of perspectives.

The Tribunal received overwhelmingly positive feedback in relation to the seminar. The seminar papers are published on the Tribunal website.

Tribunal participation in external conferences, seminars and other activities

Members and staff gave presentations about the Tribunal and its operations at a number of external conferences, seminars and forums during the reporting period: see Appendix 9 for more information on these activities.

Administrative Appeals Tribunal Mooting Competition

The Tribunal held its fifth annual AAT Mooting Competition from July to October 2009. Preparation for the fifth competition took into account the results of a formal evaluation of the previous moots and suggestions for change. The Tribunal was encouraged by feedback from participants that suggested that students gain a deeper understanding of administrative law, and a greater appreciation of the jurisdiction and powers of tribunals through participating in the competition.

Thirty-one teams from 16 Australian universities participated, each team made up of two law students acting as senior and junior counsel, with a third student acting as researcher and scribe.

The moots are abridged versions of Tribunal hearings. The teams present written and oral submissions to a Tribunal member or members acting as adjudicators, based on a factual scenario drawn from the Tribunal's jurisdictions.

The grand final, in Sydney on 7 October 2009, was won by Katherine Manstead and Jordan Byrnes from Bond University, Queensland. Katherine Manstead also received the Registrar's Best Oralist award. The runners-up, from the University of New South Wales, were Emily Burke, Ashley George and Anna Lee. The Tribunal's President, Justice Downes, Deputy President Block and Senior Member Frost adjudicated.

Sponsoring work experience placements

The Tribunal's registries provided a number of work experience placements for university students during the year. Work experience placements included undergraduate and graduate law students from Adelaide University, Bond University, the Leo Cussen Institute, Queensland University of Technology and the University of Wollongong, and a student from Adelaide High School.



Justice Downes congratulates the winners of the 2010 Mooting Competition, Jordan Byrnes and Katherine Manstead



Justice Downes with the runners-up, Emily Burke, Anna Lee and Ashley George

