



Administrative Appeals Tribunal

2004–2005
Annual Report 2004–2005



Administrative Appeals Tribunal
2004-2005
Annual Report 2004 - 2005

© Commonwealth of Australia 2005

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Australian Government, available from the Department of Communications, Information Technology and the Arts. Requests and enquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Intellectual Property Branch, Department of Communications, Information Technology and the Arts, GPO Box 2154, Canberra ACT 2601, or posted at www.dcita.gov.au/cca.

ISSN 1035-3161

Editorial services provided by Libraries Alive!
Designed by Spectrum Graphics <sg.com.au>
Printed by Canprint



Administrative Appeals Tribunal

PRESIDENT'S CHAMBERS
The Hon Justice Garry Downes AM

17 October 2005

The Hon Philip Ruddock MP
Attorney-General
Parliament House
CANBERRA ACT 2600

My dear Attorney-General,

In accordance with section 24R of the *Administrative Appeals Tribunal Act 1975*, I present to you the Annual Report of the Administrative Appeals Tribunal covering the Tribunal's operations for the year ended 30 June 2005.

yours faithfully


GARRY DOWNES

Contents

Reader's guide	v
Chapter 1: The year in review	1
President's overview	2
Registrar's report	4
Organisational Plan and Statement of Achievements	6
Chapter 2: Overview of the Tribunal	11
Chapter 3: Workload and performance	21
Chapter 4: Our users and partners	33
Chapter 5: Our people and our organisation	43
Financial Statements	57
Appendices	101
Appendix 1: Members of the Tribunal	102
Appendix 2: Staff of the Tribunal	124
Appendix 3: Statistics for the year ending 30 June 2005	126
Appendix 4: Tribunal application fees	139
Appendix 5: Changes to jurisdiction	140
Appendix 6: Decisions of interest	143
Appendix 7: Freedom of information	155
Appendix 8: Commonwealth Disability Strategy—the Tribunal's performance in employer role	157
Appendix 9: Consultancies	159
Endmatter	161
Glossary	162
Contacting the Tribunal	165
Indexes	167
Compliance Index	168
Alphabetical Index	170

Reader's guide

The purpose of this annual report is to inform the Attorney-General, the Parliament, Tribunal users and the general public about the performance of the Administrative Appeals Tribunal (the AAT) during the period 1 July 2004 to 30 June 2005.

The Tribunal's Organisational Plan 2004–05, which appears at the end of Chapter 1, sets out key result areas, goals and strategies which are linked to the outcome specified in the Tribunal's Portfolio Agency Budget Statements. That outcome is:

to provide aggrieved persons and agencies with timely, fair and independent merits review of administrative decisions over which the Tribunal has jurisdiction.

This report provides information on the Tribunal's performance in relation to this outcome and each of the key result areas identified in the plan.

Chapter 1: The year in review—comprises the President's overview and Registrar's report. These two reports highlight significant issues relating to the Tribunal's performance during the reporting year, which are discussed in more detail throughout the report.

Chapter 2: Overview of the Tribunal—provides basic information about the Tribunal, including its role, functions and powers, organisational structure, people, dispute resolution process and accessibility.

Chapter 3: Workload and performance—provides information and commentary on the Tribunal's workload and performance results. This chapter includes information on financial performance, performance against internal time standards, complaints and external scrutiny.

Chapter 4: Our users and our partners—contains information on initiatives to improve the Tribunal's practices and procedures, access to the Tribunal and the Tribunal's liaison with its users. It also describes the Tribunal's contact and relationships

with other external bodies in relation to issues concerning the Tribunal and its operations.

Chapter 5: Our people and our organisation—provides information on human resource management within the Tribunal and the administration of the Tribunal generally.

The audited financial statements of the Tribunal are set out after Chapter 5, commencing at page 57. The appendices include profiles of the Tribunal's members, more detailed statistical information on the Tribunal's workload, changes to the Tribunal's jurisdiction, Tribunal decisions of interest, freedom of information data, a summary of the Tribunal's performance against the Commonwealth Disability Strategy and details of consultancies used by the Tribunal during 2004–05. A complete list of appendices is provided in the table of contents.

The following tools may assist in finding information in this report—the table of contents at page iv, glossary at page 162, the compliance index at page 168 and the alphabetical index at page 170.

An electronic version of this annual report is available from the Tribunal's website, at www.aat.gov.au/CorporatePublications/AnnualReport.htm. Further information about the Tribunal is available from the Tribunal's homepage, at www.aat.gov.au.

Enquiries, comments or requests for further information about this annual report may be addressed to:

Registrar
Principal Registry
Administrative Appeals Tribunal
GPO Box 9955
SYDNEY NSW 2001

Telephone: (02) 9391 2491
Fax: (02) 9391 2578
Email: annrep@aat.gov.au



Chapter 1

The year in review

- 2 President's overview
- 4 Registrar's report
- 6 Organisational Plan and Statement of Achievements

Chapter 1: The year in review

President's overview



Fairness in administrative decision-making is essential to good government. The Administrative Appeals Tribunal is a substantial contributor to this object

where there is an appeal to the Tribunal. It provides a review mechanism by which individuals can secure fairer decisions in those cases in which the original decision is wanting. The body of its work provides guidance to decision-makers and assists in achieving uniformity.

The reputation of the Tribunal is very high.

The recent bi-partisan report of the Senate Foreign Affairs, Defence and Trade References Committee on the effectiveness of Australia's military justice system described the Tribunal as having a 'reputation [that] is impeccable'.

In March the Parliament passed extensive amendments to the *Administrative Appeals Tribunal Act 1975* which had been under consideration for some years. These amendments added to the obligation which the Tribunal has long had to conduct its reviews 'with as little formality and technicality, and with as much expedition' as possible (s 33(1)(b)). The Tribunal now also has a duty to conduct its reviews in a manner that is 'fair, just, economical, informal and quick' (s 2A). This statutory obligation recognises a number of complementary goals which have always guided the work of the Tribunal. A fair result which is unreasonably delayed is not a just result. Neither is a quick result which is ill considered. The Tribunal strives to conduct hearings as early as possible consistent with allowing reasonable time for preparation and consistent with budgetary restraints. It strives to reach decisions as quickly as possible after hearing. In ordinary

circumstances decisions should not take longer than two months from final submissions. That is the Tribunal's standard.

Review in the Tribunal is not litigation. It is not dispute resolution as such. Dispute resolution may be a consequence of review in the Tribunal but it is not its essence. The role of the Tribunal, as part of the Executive arm of Government, is to make administrative decisions. It considers decisions of Ministers and Government agencies, sometimes already reviewed by intermediate Tribunals and, where they are wanting, substitutes its own decision. The decision becomes the agency's decision and must be enforced by it. The role of an agency in review in the Tribunal is accordingly quite different from the role of a party to litigation, even a party which is a government agency. A natural aspect of the role is to assist the Tribunal to come to its decision. It is accordingly pleasing to see that the Parliament has recognised this important obligation and given it legislative force by the amendments (s 33(1AA)).

Alternative Dispute Resolution (ADR) has been an important part of the practices of the Tribunal for many years. Early resolution of the dispute which lies behind each matter which the Tribunal comes to review is plainly desirable. Early resolution is implementation of the statutory objects. The Tribunal's system of conferences has provided an important and very effective means of ADR. Other forms of ADR have also previously been available in the Tribunal. However, the amending legislation has consolidated and expanded the facilities previously available. The Tribunal is accordingly looking at implementing new ADR procedures which will aim for earlier resolution without substantial risk of increased costs where it is not successful.

Other parts of the amendments have given the Tribunal more flexibility in the way it carries out its functions. Members have greater powers. Conference Registrars can give directions. The Tribunal has been given greater flexibility

in determining how it should be constituted for particular hearings. A number of provisions requiring the Tribunal to be constituted in a particular way for particular matters have been repealed. A provision guiding the Tribunal generally as to how it should be constituted has been inserted in the Act.

The Tribunal continues to play a significant role in the Australian community. This year saw further powers of review conferred on the Tribunal under new or amended legislation.

I was honoured to be re-elected as Chair of the Council of Australasian Tribunals (COAT) for a further year. COAT continues to grow in stature with active State Chapters. This year will see the completion of the COAT *Practice Manual for Tribunals*. These and other activities add to the depth and strength of Tribunals in Australia and New Zealand.

A major project for the Tribunal in 2004–05 has been the adoption of a professional development programme which includes a mentoring and appraisal system for members.

This year has seen a considerable change in the membership of the Tribunal.

Professor Geoffrey Walker joined the Tribunal as a full-time Deputy President in Sydney. Professor Stan Hotop has recently been appointed full-time rather than part-time Deputy President in Perth. The Honourable Raymond Groom was appointed as a part-time Deputy President in Hobart. The Honourable Howard Olney AM QC joins us as a part-time Deputy President in Melbourne. Former Members Narelle Bell and Graham Friedman have been reappointed as full-time Senior Members. Robin Hunt, Josephine Kelly and James Constance joined the Tribunal as full-time Senior Members. Regina Pertou joined us as a full-time Member in Melbourne. There have been many part-time appointments and re-appointments too numerous to mention. I note the retirement of full-time Senior Members

Joan Dwyer from the Melbourne Registry and Wendy Purcell from the Adelaide Registry. Both have given valuable service to the Tribunal for many years. I wish them well for the future. I am also pleased to acknowledge the conferring of membership of the Order of Australia to Deputy President Rodney Purvis QC in the Queen's Birthday Honours list. Joan Dwyer was also awarded the Medal of the Order of Australia.

The members and staff of the Tribunal remain its core and most valuable asset. The result of the year's work, as set out in this report, is testament to the energy and dedication with which they go about their tasks.

Finally, I note that on 16 May 2005 I was appointed President of the Tribunal for a term of seven years.



Garry Downes

Registrar's report



2004–05 marks a further year of considerable progress of the Tribunal at Registry level. In July 2004 the Tribunal conducted a successful induction course for new members

joining the Tribunal. Feedback from this course is being used to improve a similar course to be held in July 2005 for new AAT Members.

Case Management remains a focus for the Tribunal with attention being given to ways to ensure matters are heard in a timely manner. There is regular monitoring of parties' compliance with legislative requirements and Tribunal directions. Early in 2005 the Tribunal issued a Listing and Adjournment Practice Direction. This is designed to reduce late applications to vacate hearings and ensure matters proceed to a conclusion at the earliest possible time.

The Tribunal remains focused on a client service model. A user survey was carried out in late May and early June to ascertain the views of those who come to the Tribunal as applicants, respondents and legal practitioners. The results of this survey will be used to guide us on those areas of the Tribunal activities that can be improved.

Great energy has been expended in pursuing property solutions for the Tribunal in Melbourne, Sydney, Adelaide and Perth. At the time of writing, negotiations have concluded in three of the four locations. In Melbourne, a consolidation of space at the current location in Southbank has produced a satisfactory result with considerable cost savings over the life of the lease. In Perth, the Tribunal is being forced to relocate due to

a decision by the current landlord not to renew our lease. Suitable alternate premises have been identified. The challenge in the next twelve months will be to finalise negotiations, complete all legal requirements, design and construct a new office and complete relocation prior to the expiration of the current lease. In Sydney, we will remain at our current premises. Property decisions have been guided by the need to obtain best value for Commonwealth funds balanced by the need to have accommodation suitable for our needs and our users needs for the next 10 years.

The information technology area has also been very active. The major area has been the completion of tender documentation and its release to the market for a replacement system for our current case management system. Eleven responses were received to the tender. Of these, seven were the subject of presentations with a further three short listed for further presentations. The Tribunal has identified a preferred tenderer and subject to satisfactory negotiations, will seek to finalise a contract in the next few months. The implementation of the selected system will be a major task in 2005–06. We expect that the new system will provide significant efficiencies to the tribunal as a whole and be more user friendly to members and staff.

The legal advice scheme has now been expanded to every mainland state except South Australia. The Tribunal is working with the Legal Services Commission of South Australia at the time of writing to expand the scheme to Adelaide. Feedback indicates that the scheme offers considerable assistance to applicants to the Tribunal.

2004–05 has seen the employment of our first Aboriginal trainee under our ATSI employment program. The Tribunal has also hosted a number of work placement students. An exciting development has been the first AAT moot competition. This was designed to raise awareness of law students of the Tribunal and its work. A total of sixteen teams from Sydney and Canberra participated. We expect an enlarged program in the coming year.

The Tribunal continues to work closely with its fellow Commonwealth merits review tribunals, exploring avenues to share resources and promote efficiency. In furtherance of this, a Memorandum of Understanding was signed off in relation to consultation and sharing of staff development and training resources and opportunities for secondments. We have renewed arrangements for a further five years to provide registry services and facilities for the Migration Review Tribunal in Brisbane, Perth and Adelaide. We have also renewed arrangements for the Federal Court to provide registry services on our behalf in Hobart. These arrangements provide savings on a whole of government basis.

At a personal level I have also been busy in the role of secretary of the Council of Australasian Tribunals (COAT). This has included work to alter the structure of COAT to a more business like model, including various administrative and tax office requirements to allow COAT to levy membership fees for the first time.

I would like to record my appreciation of the advice and guidance given to me by the President, Justice Garry Downes. The Principal Registry and District Registry staff have been kept extraordinarily busy during the year coping with all the usual work as well as the considerable tasks that we set for the Tribunal. I wish to particularly mention Chris Matthies, Manager Policy and Research, for his contribution in acting as the Assistant Registrar during a period of maternity leave by the incumbent, Sian Leatham. The team approach within Principal Registry ensures issues are dealt with in a collegiate manner and with the benefit of broad input.

I look forward to reporting on the Tribunal's achievements in twelve months time.



Doug Humphreys

Chart 1.1 Administrative Appeals Tribunal (AAT) 2004–05 organisational plan and statement of achievements

Our Vision		Our Mission		Our Values	
To be a leader in administrative review, providing informal, fast and fair merits review, unfettered by costly and legalistic procedures.		To deliver high quality independent merits review of administrative decisions in a timely fashion using alternative dispute resolution processes where appropriate.		User focus Integrity Professionalism Efficiency Equity and accessibility Independence	
<i>Key result area</i>	<i>Goals</i>	<i>Strategies 2004–05</i>	<i>Key targets 2004–05</i>	<i>Outcomes</i>	<i>Achievements</i>
Our Users	To provide a national high quality merits review process that contributes to community confidence in a system of open and accountable government.	<ul style="list-style-type: none"> • Increase duty lawyer services to unrepresented users. • Review case management practices and procedures. • Improve understanding of user expectations. 	<ul style="list-style-type: none"> • Evaluate existing duty lawyer services and implement in other registries. • Conduct a review of case management procedures commencing in compensation and social security matters. • Implement a national response to non-compliance. • Conduct user survey and evaluate results. • Conduct regular liaison meetings. 	<ul style="list-style-type: none"> • Australians have equitable access to an informal, fast and fair system of merits review unfettered by costly and legalistic procedures. • Processes are monitored and reviewed, in the light of user comments. 	<ul style="list-style-type: none"> • Evaluation completed of the legal advice scheme in Victoria. Agreement to continue scheme in New South Wales and Queensland. Scheme commenced in Western Australia. • Consultation draft developed for matters in the compensation jurisdiction. • Evaluation of Victoria social security procedures in progress. • Evaluation of the concurrent evidence study in progress.

Chart 1.1 Administrative Appeals Tribunal (AAT) 2004–05 organisational plan and statement of achievements *Continued*

Key result area	Goals	Strategies 2004–05	Key targets 2004–05	Outcomes	Achievements
					<ul style="list-style-type: none"> • Continuance of regular quarterly non-compliance reports and follow up. • Listing and Adjourment Practice Direction developed and implemented. • User survey conducted. • User liaison meetings conducted regularly. • Updated AAT Service Charter issued. • Participated in training activities for users.

■ Chart 1.1 Administrative Appeals Tribunal (AAT) 2004–05 organisational plan and statement of achievements *Continued*

Key result area	Goals	Strategies 2004–05	Key targets 2004–05	Outcomes	Achievements
Our People	To maintain professional standards, a positive, safe and productive workplace that values diversity.	<ul style="list-style-type: none"> • Seek views of staff on organisational performance. • Improve occupational health and safety practices. • Ensure appropriate staffing. • Provide support to members. • Develop and expand diversity employment strategies. • Devise a learning and development programme. 	<ul style="list-style-type: none"> • Conduct training needs analysis. • Conduct succession planning for key positions. • Implement learning and development programme. • Conduct review of Member Support Teams and implement accepted recommendations. • Complete AAT practice manual. • Devise and implement a professional development programme for members. • Commence Aboriginal and Torres Strait Islander employment programme. 	Members and staff have the skills, knowledge and commitment to deliver high quality services.	<ul style="list-style-type: none"> • Induction program conducted for new members in July 2004. Set of induction materials developed for new members. • Workplace Harassment Contact Officers appointed and trained. • Training needs analysis conducted. Training plan for January to June 2005 published. • Two staff newsletters published. • Succession planning ongoing. • Client Service Officer Conference held. • ATSI trainee appointed in Queensland and cultural awareness training delivered. • Members' professional development program formulated. • Commenced staffing review.

Chart 1.1 Administrative Appeals Tribunal (AAT) 2004–05 organisational plan and statement of achievements *Continued*

Key result area	Goals	Strategies 2004–05	Key targets 2004–05	Outcomes	Achievements
Our Organisation	To be an organisation with systems and processes that maximise effective and efficient use of Tribunal resources.	<ul style="list-style-type: none"> • Improve resources management. • Improve IT systems. • Minimise exposure to system or other risks, fire or natural disaster. 	<ul style="list-style-type: none"> • Settle Melbourne and Sydney leasing arrangements. • Commence property search Adelaide and Perth. • Identify new case management system and commence implementation. • Implement new HR/Finance IT systems. • Issue a co-ordinated business continuity plan. 	<ul style="list-style-type: none"> • Planning and organisational decisions are based on timely and accurate information. • Systems and processes allow staff to work more efficiently and provide high quality service. 	<ul style="list-style-type: none"> • Lease Heads of Agreement completed for Melbourne registry. • Final negotiations under way in Sydney. • Negotiations under way in Perth and Adelaide. • Case management tender released. • Completed detailed evaluation of tenders. • New operating systems for Finance and HR installed. • Decision on new systems deferred at request of users.

Chart 1.1 Administrative Appeals Tribunal (AAT) 2004–05 organisational plan and statement of achievements *Continued*

Key result area	Goals	Strategies 2004–05	Key targets 2004–05	Outcomes	Achievements
Our Partners	To co-operate with government, other tribunals, the legal profession and other interested groups.	<ul style="list-style-type: none"> Develop and enhance our links with government, other tribunals and our partners in administrative review. Develop links with universities and law educators. Increase AAT participation in community and continuing legal education. 	<ul style="list-style-type: none"> Participate fully and provide expert advice to government and legal forums relevant to the work of the AAT. Establish AAT moot competition. Develop training programmes for users in Administrative Law. Develop a policy on community education. 	<ul style="list-style-type: none"> Legislators and policy makers value the Tribunal's expertise on matters of administrative review. Better understanding of the AAT and its part in the administrative decision making process. 	<ul style="list-style-type: none"> Community education activities undertaken including AIAL and AJA conferences, professional CLE in Melbourne, Sydney and Government Solicitors' Conference in Sydney. Information provided to government departments and reviews in relation to Tribunal practice and procedure. AAT/Law Council Liaison Committee established. Law student moot competition undertaken. Community education policy issued. Sponsored work placement of students continued. Signed MOU on staff development and training with other Commonwealth Merits Review Tribunals.

Chapter 2

Overview of the Tribunal

- 12 Establishment
- 12 Functions and powers
- 13 Organisation
- 15 Membership
- 15 Registrar and Assistant Registrar
- 15 Staff
- 16 Registries
- 16 Tribunal Committees
- 17 The dispute resolution process
- 19 Access to the Tribunal
- 20 Additional functions

Chapter 2: Overview of the Tribunal

The role of the Tribunal is to provide merits review of administrative decisions. The Tribunal must pursue the objective of providing a mechanism of review that is fair, just, economical, informal and quick.

The Tribunal falls within the portfolio of the Attorney-General, the Honourable Philip Ruddock MP.

Establishment

The Tribunal was established by the *Administrative Appeals Tribunal Act 1975* (the AAT Act) and commenced operations in 1976. The AAT Act and the *Administrative Appeals Tribunal Regulations 1976* (the AAT Regulations) set out the Tribunal's powers, functions and procedures.

Functions and powers

Review of decisions

The Tribunal is an independent body that reviews a broad range of administrative decisions made by the Australian Government, including ministers and officials, authorities and other tribunals. The Tribunal also reviews administrative decisions made by some State government and non-government bodies in limited circumstances. Merits review of an administrative decision involves its reconsideration. On the facts before it, the Tribunal decides whether the correct—or, in a discretionary area, the preferable—decision has been made in accordance with the applicable law. It will affirm, vary or set aside the original decision.

The Tribunal is not always the first avenue of review of an administrative decision. In some cases, it cannot review a decision until an internal review has been conducted by the agency that made the primary decision. In other cases, review by the Tribunal is only available after intermediate review by a specialist tribunal. For example, in the area

of social security, an application may be made to the Tribunal only after review by the Social Security Appeals Tribunal.

Section 33 of the AAT Act requires that proceedings of the Tribunal be conducted with as little formality and technicality, and with as much expedition, as the requirements of the Act and a proper consideration of the matters before the Tribunal permit. The Tribunal is not bound by the rules of evidence and can inform itself in any manner it considers appropriate.

Jurisdiction

The Tribunal does not have a general power to review any decision made under Commonwealth legislation. The Tribunal can only review a decision if an Act, regulation or other legislative instrument provides specifically that the decision is subject to review by the Tribunal. Jurisdiction is generally conferred by the enactment under which the original decision was made.

The Tribunal has jurisdiction to review decisions made under more than 400 separate Acts and legislative instruments. The Tribunal's jurisdiction includes areas such as Commonwealth employees' compensation, social security, taxation, veterans' entitlements, bankruptcy, civil aviation, corporations law, customs, freedom of information, immigration and citizenship, industry assistance and security assessments undertaken by the Australian Security Intelligence Organisation. Changes to the Tribunal's jurisdiction during the reporting year are set out in Appendix 5.

Changes to the *Administrative Appeals Tribunal Act 1975*

In March 2005 Parliament passed the *Administrative Appeals Tribunal Amendment Act 2005* (the AAT Amendment Act) which amended the AAT Act and a number of related Acts. The amendments were proclaimed to commence on 16 May 2005.

The AAT Amendment Act introduced a range of changes to the way in which the Tribunal may deal

with applications for review. These changes will assist the Tribunal to manage its caseload flexibly and efficiently. They include the following:

- New provisions have been introduced relating to alternative dispute resolution processes that the Tribunal may use, including case appraisal and neutral evaluation.
- The President may authorise Conference Registrars to issue binding directions.
- The range of powers that Members may exercise has been expanded to include powers that could be exercised previously only by presidential members and Senior Members.
- Multi-member tribunals comprised solely of Members are permitted.

Organisation

The Tribunal consists of a President, presidential members (including Judges and Deputy Presidents), Senior Members and Members. The President must be a judge of the Federal Court of Australia. Some presidential members are judges of the Federal Court or Family Court of Australia. All Deputy Presidents must be lawyers. Senior Members may

be lawyers or have special knowledge or skills relevant to the duties of a Senior Member.

Members have expertise in areas such as accountancy, actuarial work, administration, aviation, engineering, environment, insurance, law, medicine, military affairs, social welfare, taxation and valuation.

Appointments to the Tribunal may be full-time or part-time.

The President, with the assistance of the Registrar, is responsible for the management of the Tribunal and its resources. The President has established a number of committees comprised of members and senior staff to provide advice and assistance in specific areas. District Registrars and Principal Registry managers also provide policy advice and operational assistance.

The Tribunal's Principal Registry is located in Brisbane and Sydney. The Tribunal has registry facilities in all capital cities. The Northern Territory is currently managed from Brisbane. The President and Registrar are located in Sydney.



Senior Member Bell, Deputy President Walker, Justice Downes, Deputy President Groom and Senior Member Hunt at the members swearing in ceremony.



Deputy President Forgie, Bob Gotterson QC and Deputy President Muller at the members swearing in ceremony.

Figure 2.1 Administrative structure of the Tribunal

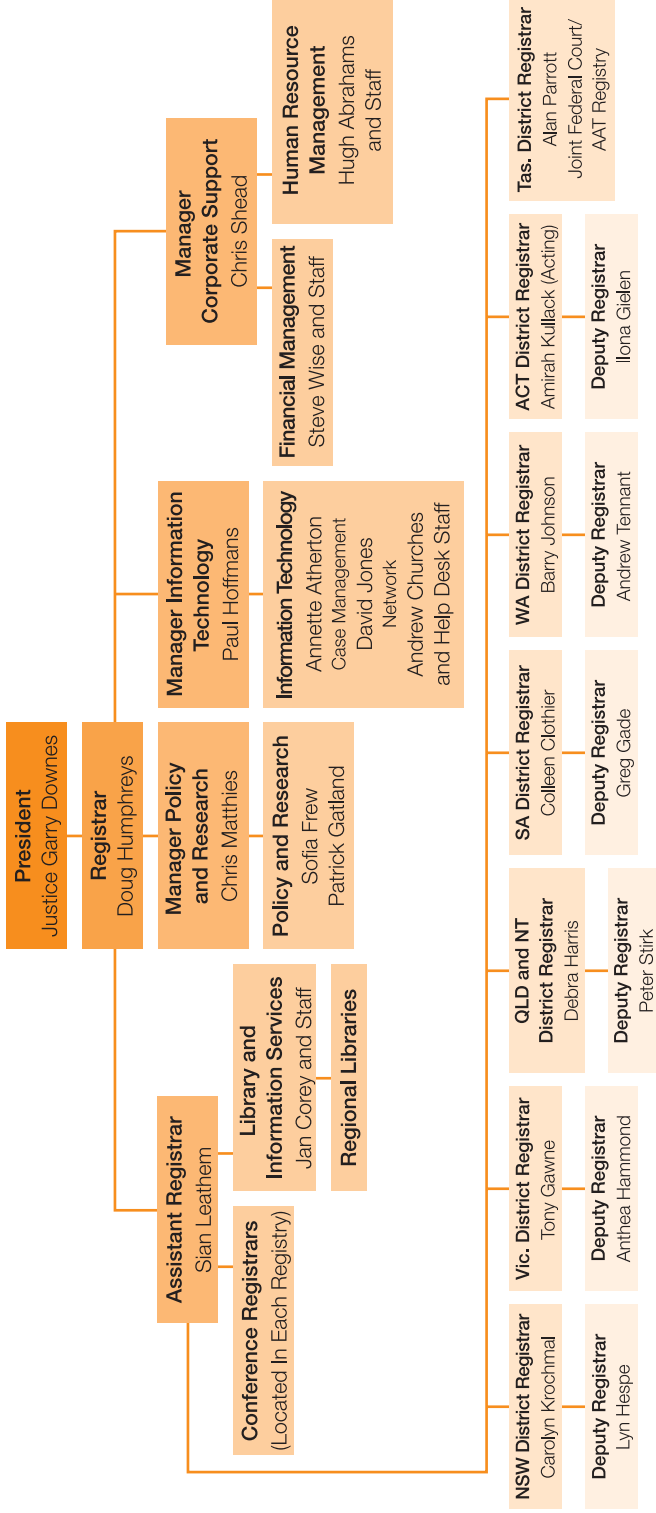


Table 2.1 Tribunal membership as at 30 June 2005

Class of member	Judges	Full-time	Part-time	Total (women)
President	1			1
Presidential members:				
Federal Court Judges	5			5
Family Court Judges	2			2
Deputy Presidents		6 ^a	5	11 (1)
Senior Members		8	8	16 (6)
Members		3	37	40 (9)
Total	8	17	50	75 (16)

^a One full-time Deputy President was on extended leave of absence from the Tribunal throughout the reporting period.

Membership

President

The Honourable Justice Garry Downes AM was appointed as a judge of the Federal Court of Australia on 2 April 2002. On that day, Justice Downes was also appointed Acting President of the Tribunal. On 16 May 2005, he was appointed as President of the Tribunal for a period of seven years.

Membership of the Tribunal

As at 30 June 2005, the Tribunal's membership totalled 75.

Appendix 1 contains a list of the Tribunal's membership by State and Territory and shows the divisions to which each non-presidential member was assigned as at 30 June 2005. This appendix also contains a profile of each of the Tribunal's members.

Registrar and Assistant Registrar

The Tribunal's Registrar is Doug Humphreys. He commenced with the Tribunal on 25 August 2003.

The Registrar assists the President to manage the Tribunal and advises on its operations and performance. The Registrar may act on behalf of the President in relation to the administrative affairs of the Tribunal. The position of Registrar is a statutory office appointed by the Governor-General. The Registrar is, for the purposes of the *Public Service*

Act 1999, the agency head, and is responsible for the employment of the Tribunal's staff on behalf of the Commonwealth. The Registrar is also the chief executive officer for the purposes of the *Financial Management and Accountability Act 1997*.

The Registrar is assisted by the Assistant Registrar and senior officers in the Principal Registry and District Registries.



Assistant Registrar
Sian Leathem

The Assistant Registrar is Sian Leathem, who holds office as a senior executive in the Australian Public Service (APS). Ms Leathem commenced with the Tribunal in January 2004.

Staff

Tribunal staff are employed under the *Public Service Act 1999* as ongoing, non-ongoing or intermittent employees. As at 30 June 2005, a total of 153 staff was employed by the Tribunal.

Appendix 2 lists:

- numbers of ongoing, non-ongoing or intermittent staff of each classification in each registry
- numbers of ongoing employees who fall into each equal employment opportunity category, where staff have provided this information.

Registries

Principal Registry

Principal Registry staff are located in Brisbane and Sydney, with outposted technical specialists in library and information technology services in other capitals. Frequent and regular communication between the staff is maintained via email, telephone conferences and periodic face-to-face meetings.

Principal Registry staff advise and assist the President and Registrar in relation to legal and policy issues and case management as well as providing human resource management, payroll, finance, property and information and technology services to members and staff.

District Registries

District Registries are located in each capital city. In Hobart, the registry service is provided by the Federal Court of Australia. The Queensland Registry has responsibility for Northern Territory applications and for ensuring an effective level of service to Northern Territory residents. Each registry is headed by a District Registrar who is responsible for local case management and registry management.



Senior Member Beddoe, Conference Registrar Michelle Howard, Conference Registrar Bernadette Rogers and Senior Member McCabe from the QLD Registry.

Conference Registrars conduct the bulk of the pre-hearing processes in all District Registries with the exception of Tasmania, where the District Registrar performs that role. Tribunal members also conduct conferences in some matters.

District Registries are also responsible for:

- providing information to the public, agencies, and parties to proceedings and their representatives on the operation and procedures of the Tribunal, including outreach to self-represented parties
- processing of documents
- facilitating the listing and conduct of conferences, other alternative dispute resolution processes such as conciliations and mediations, and hearings
- providing administrative and other support services to members.

Tribunal Committees

The President has established six committees to give advice and provide assistance in relation to the management of the Tribunal. A brief description of the role and membership of each committee is set out below.

The **Constitution Committee** deals with issues relating to the constitution of tribunals and, in particular, the appropriate and consistent constitution of multi-member tribunals. It comprises the President, a diverse group of members from different Tribunal registries and the Registrar.

The **Information Technology Steering Committee** is an advisory group that considers the Tribunal's information technology strategies. It comprises the President, members of the Tribunal, the Registrar, the Assistant Registrar, the Manager, Corporate Support, the Manager, Information Technology and the District Registrars from New South Wales and Western Australia.

The **Library Committee** considers issues relating to the Tribunal's information needs and oversees the Tribunal's collection development policy. It comprises the President, a diverse group of

members from different Tribunal registries, the Registrar and the Assistant Registrar.

The **Listing Coordinators' Committee** comprises the President and the members who are the Listing Coordinators for each Tribunal registry. It provides a forum for Listing Coordinators to discuss issues relating to case management and other matters of common interest.

The **Practice and Procedure Committee** deals with practice and procedure issues and, in particular, proposals to improve the way in which the Tribunal manages applications for review. The committee comprises the President, the Listing Coordinators, the Registrar, Assistant Registrar, the District Registrar from each Tribunal registry and a representative of the Tribunal's Conference Registrars.

The **Professional Development Committee** considers issues relating to the professional development of Tribunal members. The committee comprises the President, a diverse group of members from different Tribunal registries with an interest in professional development, and the Registrar.

Some of the highlights of the work undertaken by the committees are discussed in Chapters 4 and 5. Appendix 1 identifies the members of each committee.

The dispute resolution process

The Tribunal has a case management system aimed at dealing with applications in a timely and flexible manner. The purpose of the case management system is to promote:

- orderly and controlled passage of matters from lodgement to resolution
- achievement of case management targets
- equitable treatment of all parties
- effective use and allocation of Tribunal resources
- maintenance and enhancement of public confidence in the Tribunal.

The Tribunal has developed a number of Practice Directions which set out the procedures that will generally be adopted by the Tribunal in applications lodged with the Tribunal. These include:

- the General Practice Direction which applies to the majority of applications lodged with the Tribunal where the applicant is represented
- the Small Taxation Claims Tribunal Practice Direction which applies to all applications to be dealt with by the Small Taxation Claims Tribunal.

These documents are complemented by further Practice Directions on specific issues. They include the Practice Direction on Procedures relating to Section 37 of the AAT Act, the Direction on Conciliation Conferences which applies in the workers' compensation jurisdiction and the Freedom of Information Practice Direction. The Tribunal also has a Listing and Adjournment Practice Direction which sets out the Tribunal's approach to fixing hearings and dealing with requests for adjournments. This is a new practice direction which applies to all parties to applications lodged in the Tribunal throughout Australia. It took effect on 1 May 2005.

Parties are expected to play an active part in identifying legal and factual issues early in the pre-hearing process. This encourages early resolution of disputes or, where that is not possible, a clear framework within which the parties can prepare for hearing. The Tribunal provides assistance to self-represented parties.

A flow chart outlining the progress of an application through the Tribunal, from receipt of application to resolution, appears in Figure 2.2. In applications in the workers' compensation jurisdiction where the applicant is represented, the Tribunal will usually conduct a conciliation prior to the hearing.

Case management responsibilities

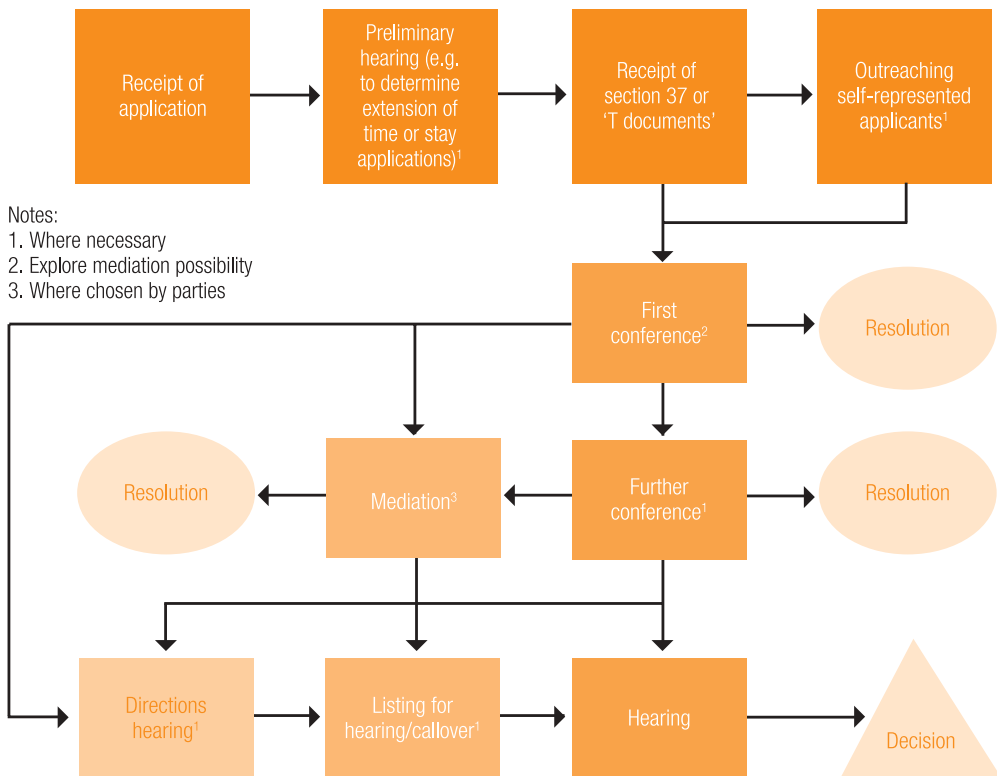
As part of its case management system, the Tribunal has Listing Coordinators in each registry. These members are responsible for ensuring that appropriate systems are in place and that matters progress as quickly as possible. Listing Coordinators control listings generally and give instructions to the registry. National standards for consistency of procedures have been adopted.

The following table identifies the Listing Coordinators as at 30 June 2005. Northern Territory matters are the responsibility of the Queensland Listing Coordinator.

Table 2.2 Listing Coordinators

Registry	Listing Coordinator
New South Wales	Deputy President Walker
Victoria	Deputy President Forgeie
Queensland	Deputy President Muller
South Australia	Deputy President Jarvis
Western Australia	Deputy President Hotop
Australian Capital Territory	Senior Member Constance
Tasmania	Deputy President Groom

Figure 2.2 Dispute resolution flow chart



Access to the Tribunal

Website, pamphlets, information sheets and video

Comprehensive information about the Tribunal and its procedures is available on the Tribunal's Internet website (www.aat.gov.au). Material included on the site includes information about when the Tribunal can be of assistance, how to make an application, the pre-hearing process, mediation, what happens at a hearing and what to do once a Tribunal decision is made. This information is also available in pamphlet form in a range of languages and in large print. A video entitled 'Getting Decisions Right', which is available to applicants, provides information about the Tribunal's practice and procedure.

The Tribunal has developed information sheets for overseas applicants, outlining the general practice and procedure of the Tribunal. The Tribunal has also developed information sheets specific to certain matters in the immigration jurisdiction. Where appropriate, the sheets have been translated into community languages.

Outreach Program

The Tribunal has an Outreach Program to provide self-represented applicants with information about the Tribunal's processes and answers to questions that they may have about procedural issues. Outreach is usually conducted over the telephone by trained officers who identify any further information needs the self-represented applicant may have and what is necessary to meet those needs.

Interpreter services

Where a party requires an interpreter for a conference, conciliation, mediation or hearing, the Tribunal engages the interpreter and will meet the associated cost. The Tribunal's policy is to arrange interpreters who are accredited by the National Accreditation Authority for Translators and Interpreters (NAATI) at the 'professional' level

(formerly Level 3). A 'paraprofessional' interpreter (formerly Level 2) may only be used in languages where no professional-level interpreter is accredited. In languages where there is no NAATI accreditation, a NAATI certificate of recognition is provided.

Information to assist interpreters, such as the Tribunal procedures for attendance, is available in an Information sheet for interpreters, which can be accessed via registries or the Tribunal website.

Access by persons with disabilities

In accordance with the Tribunal's Disability Action Plan, the Tribunal strives to make access to the Tribunal easier for people with a disability by:

- making electronic and printed material available in appropriate formats
- providing hearing aid induction loops in Tribunal premises, including conference and hearing rooms, and at most registry counters
- providing a telephone typewriter machine with national toll-free access for those with a hearing impairment
- making all premises wheelchair accessible
- providing facilities for participation in conferences or hearings by telephone or video link.

Further information about the Tribunal's Disability Action Plan and performance against the Commonwealth's Disability Strategy is outlined in Chapter 5 and Appendix 8 of this report.

Legal Advice Schemes

Since 2004, the Tribunal has been hosting legal advice schemes in cooperation with the legal aid commissions of New South Wales, Victoria and Queensland. In May 2005, a legal advice scheme commenced in the Western Australia Registry with the assistance of the Legal Aid Commission of Western Australia.

The scheme operates in a similar way in each of the Registries. A solicitor from the legal aid commission attends the Tribunal Registry for

a full-day or half-day on either a weekly or fortnightly basis. During Outreach the Tribunal advises self-represented parties that they can make an appointment to speak with the solicitor. If the person expresses interest, an appointment is made. The solicitor is able to provide the person with advice and minor assistance and, in appropriate cases, may invite the person to apply for legal aid for further assistance including representation. The majority of appointments are conducted with self-represented parties seeking review of decisions relating to family assistance or social security entitlements.

Further details about the schemes are set out in Chapter 4.

Service Charter and complaints

The Tribunal's Service Charter provides information to users about the Tribunal's service standards, our commitments to clients, responsibilities of the parties, contact information and how to make complaints to the Tribunal. Information on the Tribunal's performance against the Service Charter and on complaints is set out in Chapter 3.

Additional functions relating to warrants, controlled operations and examinations under the *Proceeds of Crime Act 2002*

In addition to carrying out their functions under the AAT Act, members of the Tribunal may be nominated to exercise powers under a number of other Acts.

Nominated members are authorised to issue telecommunications interception warrants under the *Telecommunications (Interception) Act 1979*. Since 15 December 2004 nominated members have also been authorised to issue warrants and exercise related powers under the *Surveillance Devices Act 2004*. Prior to 15 December 2004 nominated members were authorised to issue warrants for the use of listening devices under the *Australian Federal Police Act 1979* and the *Customs Act 1901*.

Only Deputy Presidents, full-time Senior Members of the Tribunal and other members who have been enrolled as legal practitioners for at least 5 years may be nominated for the purposes of these Acts.

Nominated members may also review certificates that authorise controlled operations under the *Crimes Act 1914*. Certificates expire after three months unless a nominated member has decided that the certificate should be in force for six months.

Presidential members of the Tribunal and non-presidential members who have been enrolled as legal practitioners for at least five years may be appointed as approved examiners under the *Proceeds of Crime Act 2002*. Approved examiners are authorised to issue examination notices at the request of the Commonwealth Director of Public Prosecutions and conduct compulsory examinations in connection with confiscation proceedings.



Chapter 3

Workload and performance

22 Workload

25 Our performance

30 External scrutiny

31 Performance in relation to the
Service Charter and complaints

32 Warrants, controlled operations and
proceeds of crime workload

Chapter 3: Workload and performance

Workload

This section of the annual report provides key statistical information on the number of applications lodged and finalised in 2004–05 and the number of applications current at the end of the reporting period. In addition to information on the Tribunal's overall workload, this section contains information relating to its major jurisdictions: workers' compensation, social security, taxation and veterans' affairs. Information relating to the previous two reporting periods is provided for the purposes of comparison.

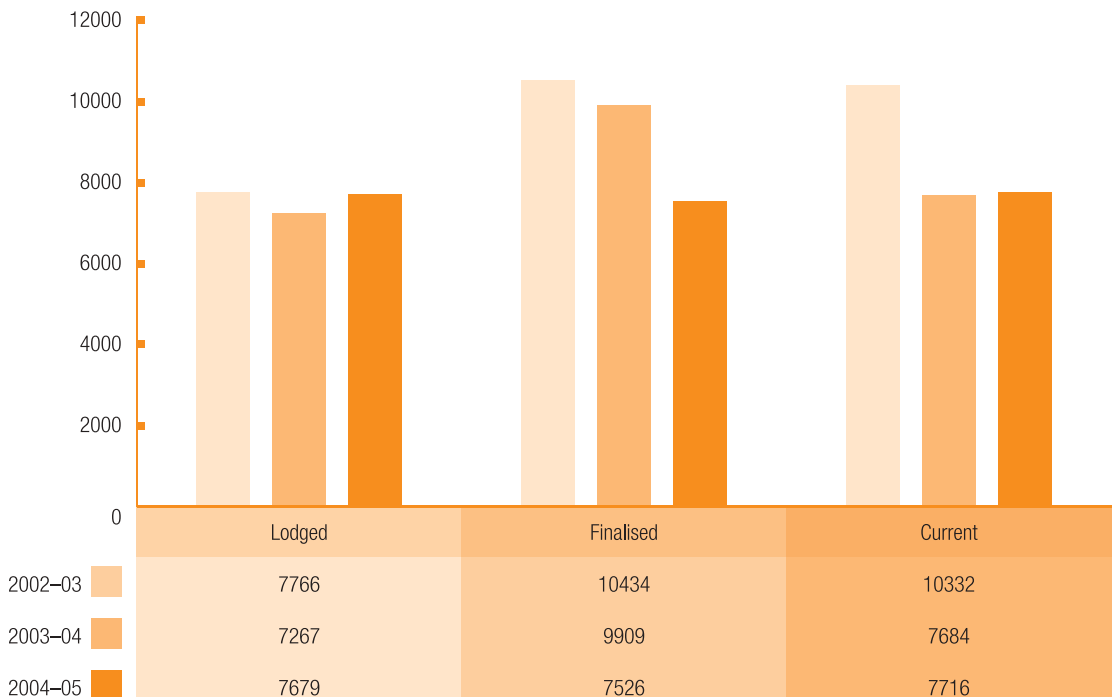
The total number of applications lodged with the Tribunal in the 2004–05 year was 6 per cent greater than the number lodged in the previous reporting period. The primary reason for this increase was

a rise in the number of applications for review of taxation decisions lodged with the Tribunal.

While there was an increase in the number of applications lodged in the 2004–05 year, the number of applications finalised was 24 per cent lower than in 2003–04. This can largely be attributed to a smaller number of applications being finalised in the Taxation Appeals Division (Taxation Division). In 2002–03 and 2003–04 a large number of applications relating to taxation schemes that had been lodged prior to 1 July 2003 were settled. It was correctly anticipated that the number of taxation scheme applications finalised in this way would decrease over time.

The number of applications current at 30 June 2005 is marginally higher than the number of applications current at the end of the previous reporting period. The increase in the number of applications lodged and the decrease in applications finalised in the Taxation Division have contributed significantly to this result.

Chart 3.1 Applications lodged, finalised and current



Applications lodged

Lodgements by major jurisdiction

The number of applications lodged in the Tribunal's major jurisdictions in each of the past three years is shown in Chart 3.2.

During the reporting year, applications relating to taxation and workers' compensation entitlements were the most common types of matters lodged with the Tribunal, comprising 28 per cent and 23 per cent of all applications lodged in the Tribunal, respectively. This was followed by social security applications which comprised 19 per cent of total lodgements.

Since 2003–04, there has been a 56 per cent increase in the number of applications lodged in the Taxation Division. There was also a 14 per cent increase in the number of applications lodged in the Small Taxation Claims Tribunal. In the Taxation Division, 54 per cent of lodgements were

applications for review of decisions relating to taxation schemes or employee benefit arrangements.

The number of applications relating to veterans' affairs increased slightly by 8 per cent, reversing a downward trend in that jurisdiction over the past few years.

Table 3.1 in Appendix 3 provides more details on the applications lodged in the reporting year for all jurisdictions. Chart 3.2 in Appendix 3 provides details in relation to the number of applications lodged in each registry.

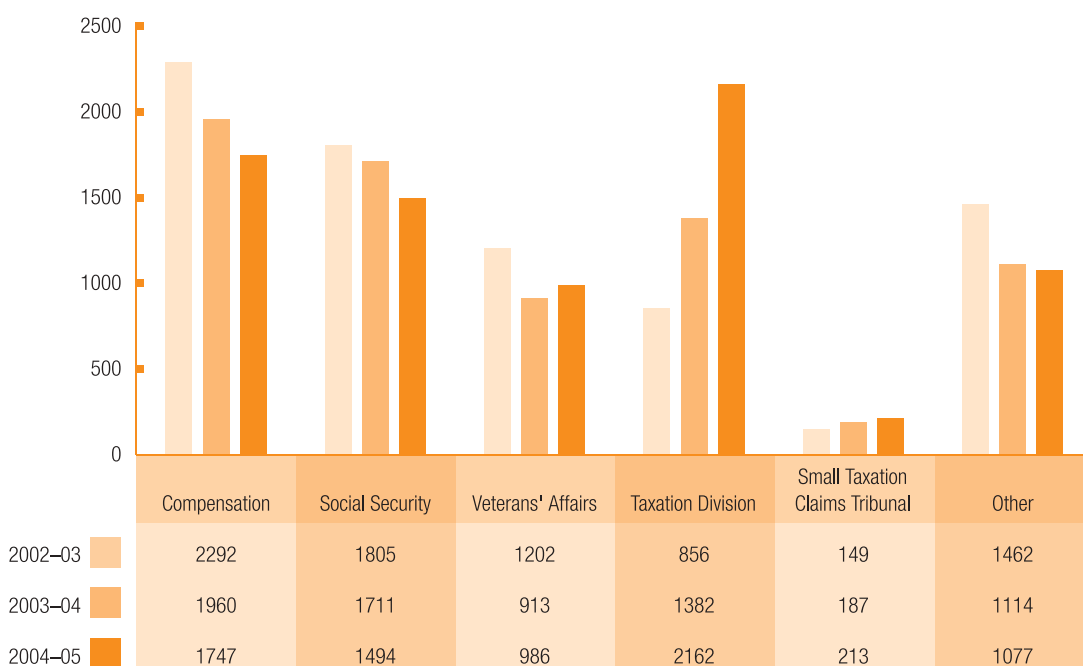
Applications finalised

Matters finalised by major jurisdiction

The number of applications finalised in the Tribunal's major jurisdictions in each of the past three years is shown in Chart 3.3.

The number of applications finalised in the Small Taxation Claims Tribunal increased by 38 per cent during 2004–05.

Chart 3.2 Applications lodged in major jurisdictions



The number of applications finalised in the other major jurisdictions declined in comparison to the previous year but remained relatively high in comparison to 2001–02.

Finalisations in the veterans' affairs and social security jurisdictions decreased by 15 per cent and 17 per cent respectively during the reporting year. There was a small decrease of 4 per cent in finalisations of workers' compensation applications.

The finalisation of matters in the Taxation Division declined by 50 per cent, which can be attributed to a decrease in the number of applications finalised relating to taxation schemes and employee benefit arrangements. This follows the remarkably high rate of finalisations recorded in this division during 2002–03 and 2003–04.

Table 3.1 in Appendix 3 provides more details on the applications finalised in the reporting year for all jurisdictions. Chart 3.3 in Appendix 3 provides information in relation to the number of applications

finalised in each registry. Table 3.5 in Appendix 3 provides further statistical information about the outcomes of matters finalised in the reporting year.

Current applications

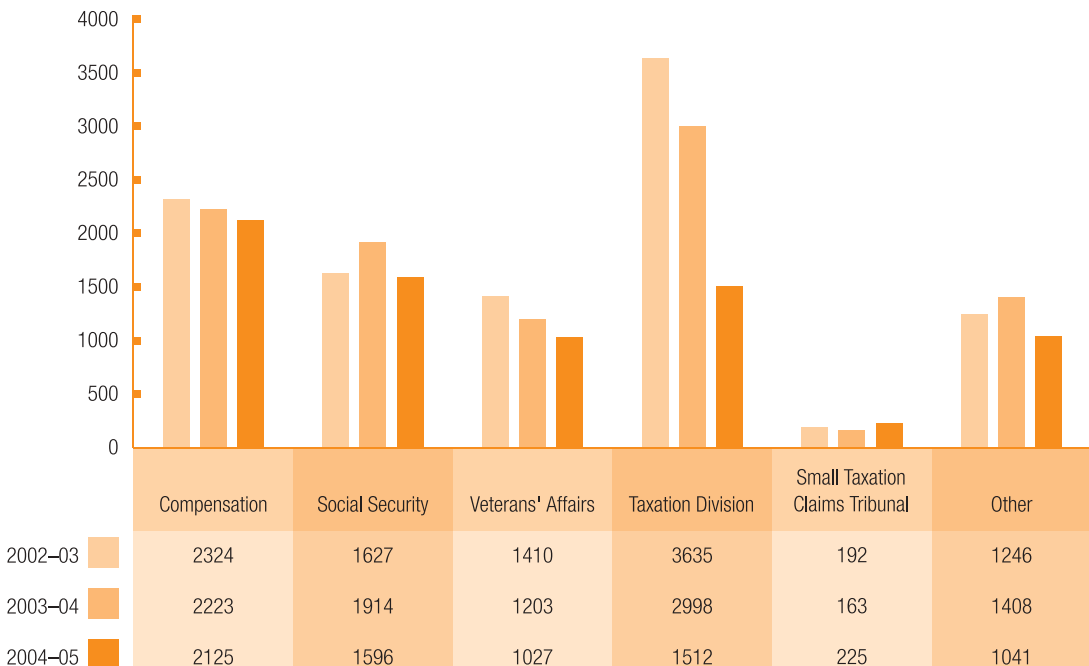
Current applications by major jurisdiction

The number of applications current in the Tribunal's major jurisdictions at the end of the current and the previous two reporting periods is shown in Chart 3.4.

The number of applications current at 30 June 2005 was lower than at the end of the previous reporting period in all of the major jurisdictions other than the Taxation Division. The Taxation Division experienced an increase in current lodgements of 19 per cent, largely due to a continuing influx of new applications relating to taxation schemes and employee benefit arrangements.

Additional information about the number of current taxation scheme matters and their management is outlined in Chapter 4.

Chart 3.3 Applications finalised in major jurisdictions



Compared to the previous reporting period, the number of current applications relating to veterans' affairs decreased by 5 per cent. The number of current applications at 30 June 2005 in the social security jurisdiction decreased by 13 per cent, and in the workers' compensation jurisdiction by 21 per cent, compared to 2003–04.

Table 3.6 and Chart 3.7 in Appendix 3 provide further information about current applications and their progress through the review process and the number of applications current in each registry.

Our performance

Outcome and outputs structure

As outlined in the Tribunal's 2004–05 Portfolio Agency Budget Statements, the Tribunal has one outcome:

To provide aggrieved persons and agencies with timely, fair and independent merits review of administrative decisions over which the Tribunal has jurisdiction.

In accordance with the Portfolio Agency Budget Statements, there is one output group relating to this outcome:

Output group 1.1—Completed review of decisions

Output 1.1.1—Applications finalised without a hearing

Output 1.1.2—Applications finalised with a hearing.

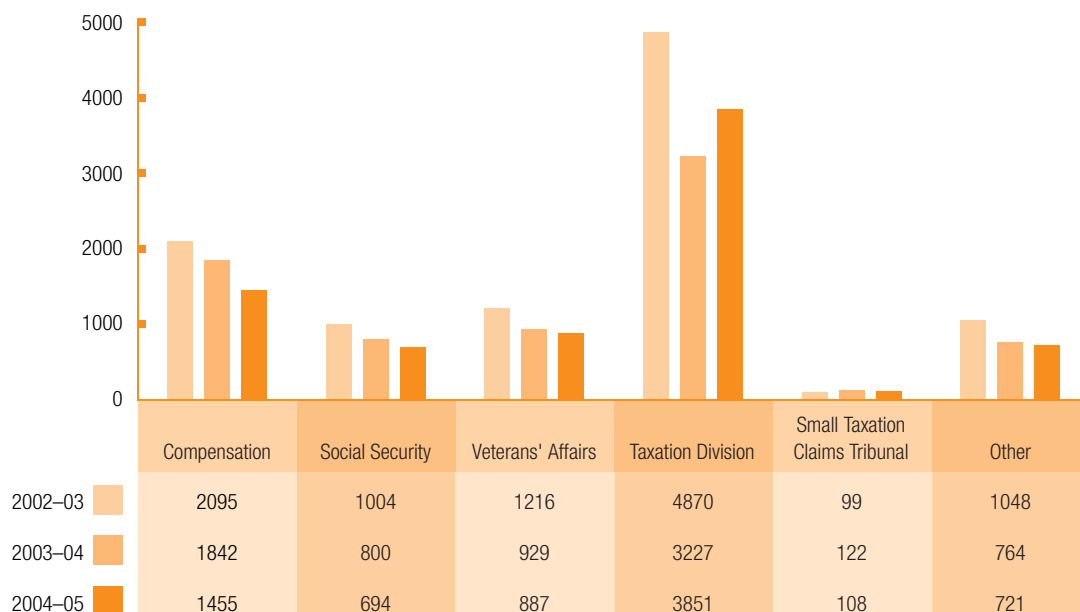
Total resourcing for outcome

Table 3.1 shows how the 2004–05 budget appropriations for the Tribunal translate to total resourcing for the Tribunal's outcome, including administered expenses, revenue from government (appropriation), revenue from other sources, and the total price of the outputs.

Performance standards

Table 3.2 shows the performance standards that the Tribunal has established to assess the level of achievement of its planned outcome during 2004–05. The table sets out the indicators and measurements used to assess the efficiency of the outputs in

Chart 3.4 Applications current in major jurisdictions



contributing to the outcome. Information shown is both quantitative and qualitative. The Tribunal's performance results against these standards are shown in the next section.

Performance results

Notification of review rights

The Tribunal provides advice and information on request to agencies and other decision-makers in relation to the notification of rights to merits review of administrative decisions. This includes informing agencies of the *Code of Practice for Notification of Reviewable Decisions and Rights of Review* determined under section 27B of the AAT Act and providing advice on the form and content of notices of rights of review. The Tribunal also contacts agencies where it identifies issues concerning notices of rights of review.

Review processes are efficient and fair

The Tribunal is committed to providing a high-quality merits review process which is efficient and fair. This is reflected in the Organisational Plan 2004–05 and is embodied, in particular, in the goal relating to our users. The Tribunal's performance in relation to this goal is discussed in Chapter 4. Information on complaints made to the Tribunal and complaints handling by the Tribunal is provided later in this chapter.

Price, quality and quantity of applications finalised

Table 3.3 sets out the Tribunal's performance against the effectiveness indicators and measures related to applications finalised, including the cost per finalised application.

Table 3.1 Total resources for Outcome 1 (\$'000)

	Budget 2004–05	Actual expenses 2004–05	Variation	Budget 2005–06
<i>Departmental appropriations</i>				
Output group 1.1—Completed reviews of decisions				
Output 1.1.1— Applications finalised without a hearing	12,074	12,021	(53)	12,270
Output 1.1.2— Applications finalised with a hearing	16,088	16,141	53	16,350
Total revenue from government (appropriations) contributing to the price of departmental outputs	28,162	28,162	-	28,620
<i>Revenue from other sources</i>				
Output 1.1.1— Applications finalised without a hearing	382	461	79	465
Output 1.1.2— Applications finalised with a hearing	509	620	111	620
<i>Revenue from other sources</i>	891	1,081	190	1,085
Total price of departmental outputs (Total revenue from government and other sources)	29,053	29,243	190	29,705
Total estimated resourcing for Outcome 1 (Total price of outputs and administered expenses)	29,489	29,639	153	30,556

Table 3.2 Performance standards, 2004–05

Effectiveness—Overall achievement of the outcome	
<i>Effectiveness indicators</i>	<i>Measures</i>
Those affected by administrative decisions within the Tribunal's jurisdiction are advised of their rights of review.	All decision makers are provided with relevant material so they can advise people of their review rights.
Review processes are efficient and fair.	Parties to the review process are satisfied that the Tribunal's practices and procedures are efficient and fair, and complaints are dealt with efficiently and fairly.
Applications to the Tribunal are resolved in a timely manner.	Time standards are complied with.
Performance information for departmental outputs	
<i>Output description</i>	<i>Performance measure</i>
Output group 1.1—Completed reviews of decisions	
Output 1.1.1—Applications finalised without a hearing	Price: \$2,387 per completed application ^a
	Quality: 85% of matters have first conference within 13 weeks
	Quantity: 5,218 finalisations
Output 1.1.2—Applications finalised with a hearing	Price: \$11,244 per completed application ^a
	Quality: 85% of matters to hearing within 40 weeks
	Quantity: 1,476 finalisations ^a

^a Projection for 2004–05; see Table 3.3 for actual figures.

Table 3.3 Performance results, 2004–05

Output group 1.1—Completed reviews of decisions	
<i>Output description</i>	<i>Performance result</i>
Output 1.1.1 —Applications finalised without a hearing	Price: \$2,166
	Quality: 86% of matters had first conference within 13 weeks ^a
	Quantity: 5,841 or 78%
Output 1.1.2 —Applications finalised with a hearing	Price: \$10,082
	Quality: 48% of matters to hearing within 40 weeks ^a
	Quantity: 1,685 or 22%

^a These figures do not include applications dealt with in the Small Taxation Claims Tribunal, which are subject to shorter time standards for these events.

The number of applications finalised by the Tribunal during the year, both with and without a hearing, was above the projections for the 2004–05 Budget. As a result, the price per completed application was less than anticipated. Further information relating to the percentage of applications finalised without a hearing in the major jurisdictions is set out in Table 3.4 in Appendix 3.

The Tribunal exceeded the target of holding a first conference within 13 weeks of lodgement in 85 per cent of applications. The Tribunal continued to experience difficulties, however, in meeting the target of holding a hearing within 40 weeks of lodgement in 85 per cent of applications. Comparative information relating to the Tribunal's performance against these targets in previous years is provided below in Table 3.6.

Timeliness of review

As a means of monitoring its performance, the Tribunal has set time standards for the finalisation of applications generally and in relation to steps in the review process, from receipt of an application to the delivery of a decision. The following is an outline of the Tribunal's performance against these time standards for the year ending 30 June 2005.

The Tribunal aims to finalise most applications within 12 months of lodgement. It has set percentage targets for the finalisation of applications within this timeframe for the major jurisdictions. Information on compliance with these

targets in the reporting period and in previous years is set out in Table 3.4.

Overall, 66 per cent of applications finalised in the reporting period were finalised within 12 months of lodgement. This result continued to be affected by the finalisation of a number of long-standing applications relating to taxation schemes.

Approximately 28 per cent of applications finalised in the Taxation Division were applications relating to taxation schemes lodged prior to 1 July 2002 and deferred pending the outcome of test cases in the Federal Court and the High Court. This contributed significantly to the low percentage of applications in the Taxation Division that were finalised within 12 months of lodgement.

Excluding finalisations in the Taxation Division from the overall figures, there has been a small improvement in the percentage of applications finalised within 12 months of lodgement during this reporting period. In relation to the other major jurisdictions, the Tribunal met its target in the social security jurisdiction but not in the compensation or veterans' affairs jurisdictions. However, there was a slight improvement in overall timeliness in both the compensation and veterans' affairs jurisdictions.

The Tribunal aims to finalise applications dealt with in the Small Taxation Claims Tribunal within 12 weeks or 84 days of lodgement. Table 3.5 shows performance against this time standard.

Table 3.4 Percentage of applications finalised within 12 months

Jurisdiction	Target %	2002–03 %	2003–04 %	2004–05 %
All matters	-	48	54	66
All matters (excluding Taxation Division)	-	71	72	74
Compensation	75	64	62	64
Social security	90	87	90	91
Taxation Division	75	7	13	35
Veterans' affairs	80	56	56	59

Note: These figures do not include applications dealt with in the Small Taxation Claims Tribunal.

Table 3.5 Percentage of Small Taxation Claims Tribunal applications finalised within 84 days

	2002–03 %	2003–04 %	2004–05 %
Small Taxation Claims Tribunal	37	49	37

The table shows that the percentage of Small Taxation Claims Tribunal applications finalised within 84 days has declined since the previous year but remains on a par with 2002–03.

As has been noted above, the Tribunal has set time standards for intermediate steps in the review process. These include time standards relating to the time between:

- the dispatch by the Tribunal of a notice under section 29 of the AAT Act to a decision maker that an application has been received and receipt of the statement of reasons and documents required under section 37 of the AAT Act
- the receipt of an application and the holding of a first conference

- the receipt of an application and the holding of a hearing
- the last day of hearing and delivery of a decision by the Tribunal.

The first of the steps is within the control of decision makers. Responsibility for the timeliness of the second and third steps is shared between the Tribunal and the parties. The fourth step is within the control of the Tribunal.

Table 3.6 shows performance against these intermediate time standards in relation to all applications other than applications dealt with in the Small Taxation Claims Tribunal, which are subject to different time standards.

While there was a slight improvement in the period between a hearing and the delivery of decision, there was a decline in meeting the time standard in relation to receipt of application to the first day of hearing.

The President and the Registrar monitor the Tribunal's performance against time standards on a regular basis. Detailed workload and performance statistics were distributed to all members and senior staff on a quarterly basis.

Table 3.6 Intermediate timeliness statistics for applications other than Small Taxation Claims Tribunal applications

Step	Time standard (days)	2002–03 %	2003–04 %	2004–05 %
Dispatch of section 29 notice to receipt of section 37 documents	35	80	80	77
Receipt of application to first conference	91	87	87	86
Receipt of application to first day of hearing	280	51	54	48
Last day of hearing to delivery of decision ^a	60	62	57	62 ^b

a These figures may include applications in which further material or submissions were to be provided by one or more of the parties following the last day of a hearing. Decisions in these applications may have been delivered within 60 days of receiving that further material or submissions.

b Where multiple applications have been heard together, they have been treated as one application for the purpose of compiling this figure for 2004–05.

A number of initiatives were undertaken during the reporting year aimed at improving the timeliness of review. These included:

- maintenance of a national system to address regular non-compliance
- introduction of a new Listing and Adjournment Practice Direction
- development of draft guidelines for the workers' compensation jurisdiction.

Further information about these initiatives is contained in Chapter 4.

External scrutiny

The Tribunal's decisions are subject to external scrutiny by the Federal Court and the Federal Magistrates Court through the filing and determination of appeals lodged pursuant to section 44 of the AAT Act. Applications may also be filed and determined under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act) or the *Judiciary Act 1903* (Judiciary Act). More generally, the Tribunal's operations are subject to external scrutiny by way of complaints to the Commonwealth Ombudsman, requests under the *Freedom of Information Act 1982*, inquiries undertaken by parliamentary committees and audits undertaken by the Australian National Audit Office. This section provides a summary of activity in relation to these forms of scrutiny during the reporting period.

Appeals to the Federal Court under section 44 of the AAT Act and applications under the ADJR Act and the Judiciary Act

A party may appeal to the Federal Court, on a question of law, from decisions of the Tribunal in relation to an application for review pursuant to section 44 of the AAT Act. Pursuant to section 44AA of the AAT Act, the Federal Court may transfer an appeal under section 44 to the Federal Magistrates Court. A party may also seek judicial review of certain Tribunal decisions under the ADJR Act, under the Constitution or under the Judiciary Act. Applications may be made to the

Federal Court, the Federal Magistrates Court or the High Court.

During the reporting year, 127 appeals were lodged with the Federal Court under section 44 of the AAT Act. There were 11 applications made under the ADJR Act or Judiciary Act, 6 of which related to interlocutory decisions made by the Tribunal during the course of particular applications for review. Table 3.10 in Appendix 3 provides information as to the number of appeals or applications lodged in relation to decisions in each of the Tribunal's major jurisdictions.

During the reporting year, decisions were given in 152 appeals lodged under section 44 of the AAT Act and in 9 applications for judicial review of decisions under the ADJR Act or Judiciary Act. Table 3.11 in Appendix 3 provides further information on the number of appeals determined.

The Tribunal's decision was set aside in only 52 cases, which constitutes less than 1 per cent of the total number of applications finalised by the Tribunal during the reporting year. Table 3.12 in Appendix 3 provides more detailed information relating to the outcomes of appeals.

During the reporting year there were no judicial decisions or decisions made by administrative review tribunals that had or may have a significant impact on the operations of the Tribunal.

Freedom of information

Five requests for access to documents under the *Freedom of Information Act 1982* were received during the reporting period. All requests were finalised during the reporting period within 30 days of receipt, with each request being granted in full. No request to amend records was received and no requests were carried over from previous years.

The statement required to be published in this report under section 8 of the Freedom of Information Act is in Appendix 7.

Ombudsman

During the reporting year, 11 complaints against the Tribunal were received by the Ombudsman, which is in line with the previous year. During the year, 12 complaints were finalised by the Ombudsman, covering 12 types of issues, with 5 resulting in an investigation by the Ombudsman. None of the investigations resulted in a finding of administrative deficiency against the Tribunal.

The Tribunal and the Ombudsman have in place administrative arrangements to facilitate referral of matters between the two bodies, where each might have jurisdiction.

Reports by Auditor-General or parliamentary committees

There were no reports relating to the operations of the Tribunal issued by the Auditor-General (other than the report on financial statements) or by a parliamentary committee during the reporting period.

Performance in relation to the Service Charter and complaints

The Tribunal's Service Charter sets out the rights and responsibilities of the Tribunal and its users. It is written in clear, simple language and is intended to be accessible to all users of the Tribunal. A copy of the charter can be viewed on the Tribunal's website (www.aat.gov.au).

Details on how to make a complaint, together with information on the Tribunal's complaint-handling procedures, are contained in the charter. This information can also be viewed on the Tribunal's website. Complaints may be made verbally or in writing.

The Tribunal's complaints-handling procedures require complaints to be dealt with in a timely manner and to properly address the issues involved. During the reporting year, the Tribunal implemented a new system for responding to complaints with a view to improving the coordination and timeliness of responses.

Privacy and confidentiality considerations are respected. Where appropriate, a complaint will result in an apology or a change to practice and procedure.

During 2004–05 the Tribunal received written and verbal complaints from 22 individuals. Two of those complaints related to two separate issues. The issues raised in the complaints covered:

procedural issues	4
conduct of conferences	0
conduct of members of the Tribunal	7
complaints about Tribunal decisions	3
complaints about timeliness of Tribunal decisions	4
complaints about Tribunal decisions displayed on Internet	6

As outlined in the Tribunal's Client Service Charter, the Tribunal will normally respond to a written complaint within 20 working days. However in more complex matters, it may be necessary to consult with other parties before a substantive response can be provided. In these instances the Tribunal advised the complainant of progress in handling the complaint. Complaints submitted in a language other than English will receive a response within 30 working days.

In all cases the Tribunal provided at least an initial response within the 20 day period. The average number of days from complaint to final response was 21 working days. This occurred because of the extra time taken to investigate some complaints.

The Tribunal does not measure whether a complainant believes that their complaint was resolved, but if further letters are taken as an indicator of dissatisfaction, then the dissatisfaction rate was 29 per cent.

Warrants, controlled operations and proceeds of crime workload

Warrants

During the course of the reporting period, 32 members of the Tribunal were nominated members for the purposes of issuing warrants under the *Telecommunications (Interception) Act 1979*, the *Australian Federal Police Act 1979*, the *Customs Act 1901* and the *Surveillance Devices Act 2004*. When the *Surveillance Devices Act 2004* came into force on 15 December 2004, existing nominations for members for the purposes of issuing warrants under the *Australian Federal Police Act 1979* and the *Customs Act 1901* were taken to be nominations under the *Surveillance Devices Act 2004*.

In 2004–05, AAT members considered applications under these Acts on 1755 separate occasions.

The Tribunal is flexible in relation to the performance of its warrants function. A nominated member is available whenever required. In the reporting period, applications were made out-of-hours on 40 occasions. 'Out-of-hours' means on the weekend, on a public holiday, or during the week before 9 am or after 5 pm.

During the reporting period, the Tribunal did not receive any applications to issue warrants pursuant to the *Education Services for Overseas Students Act 2000* or the *Migration Act 1958*.

Controlled operations

During the course of the reporting period, 26 members of the Tribunal were nominated members for the purposes of reviewing certificates that authorise controlled operations under the *Crimes Act 1914*. Consistent with previous years, AAT members dealt with only a small number of applications for the review of certificates relating to controlled operations during the financial year.

Proceeds of crime examinations

During the course of the reporting year, 26 members of the Tribunal were available as approved examiners for the purposes of conducting compulsory examinations under the *Proceeds of Crime Act 2002*.

In the 2004–05 financial year, the AAT conducted 133 proceeds of crime examination sessions. This represents an increase of 27% over the 105 examination sessions undertaken in 2002–03.

The examination sessions conducted in 2004–05 were distributed amongst the registries as shown in Table 3.9.

Table 3.9 Number of proceeds of crime examination sessions in each registry

ACT	NSW	Qld/NT	SA	Tas	Vic	WA	Total
3	51	50	0	0	26	3	133



Chapter 4

Our users and partners

34 Users of the Tribunal

39 Tribunal partners

Chapter 4: Our users and partners

This chapter describes the Tribunal's performance in meeting the goals identified in the 2004–05 Organisational Plan in relation to its users and partners.

Users of the Tribunal

The principal users of the Tribunal are parties in Tribunal proceedings and their representatives. Parties to proceedings include individuals, corporations and government agencies. The Tribunal also makes information available about its role and functions to government agencies, organisations and members of the public.

The Tribunal's goal in relation to its users, as outlined in its Organisational Plan, is:

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

This section of the report describes the strategies and key targets which the Tribunal has adopted in relation to this goal and the Tribunal's performance in relation to those strategies and targets.

Practice and Procedure Committee

The Committee met in September 2004 and April 2005. Issues discussed by the Committee included the development of the Listing and Adjournment Practice Direction, the review of practice and procedure in the compensation jurisdiction, the conduct of a survey of Tribunal users and the use of alternative dispute resolution (ADR) processes in the Tribunal. Significant developments during the reporting period concerning matters considered by the committee are discussed in this chapter.

Listing and Adjournment Practice Direction

During the reporting year the Practice and Procedure Committee considered the issue of the adjournment of hearings and, in particular, the effect of adjournments granted shortly before a hearing date. Adjournments of hearings can impact adversely on parties, on the effective use of Tribunal resources and on the timely resolution of applications for review. The Committee took the view that a clearer statement of the Tribunal's policy and procedures in relation to adjournments would help to ensure that:

- adjournments are granted only where they are justified
- requests for adjournment are made at the earliest possible opportunity.

The Tribunal developed a draft practice direction setting out its approach to listing applications for hearing, the circumstances in which an adjournment may or may not be granted and the procedures for requesting an adjournment. The draft practice direction was sent to the Tribunal's regular users and other stakeholders for comment in November 2004. After considering the comments received, the President issued the Listing and Adjournment Practice Direction in April 2005. It took effect on 1 May 2005.

Review of practice and procedure

The Tribunal manages the majority of applications for review in accordance with the Tribunal's Practice Directions, which are referred to in Chapter 2. In 2004 the Practice and Procedure Committee decided to review the way in which the Tribunal manages applications for review in its different jurisdictions. The review will consider, in particular, how the Tribunal communicates to parties its expectations and requirements in relation to the review process, with the aim of making management of applications more consistent, orderly and timely.

The first stage of the review involves an examination of practice and procedure in the compensation jurisdiction. The Tribunal has been developing a draft Guide to the Workers' Compensation Jurisdiction that outlines the procedures that the Tribunal will adopt in managing applications for review. It is proposed that, within the framework set out in the guide, the Tribunal will tailor its procedures to each application for review so that applications are dealt with in the most efficient and effective manner possible. Directions will be issued as necessary to ensure that parties and their representatives have clear guidance as to what is required at each stage of the review process. It is proposed that the General Practice Direction will no longer apply in this jurisdiction when the guide is introduced.

The Tribunal will consult Tribunal users and other stakeholders on these proposals and proposed amendments to the Section 37 Practice Direction early in the 2005–06 year.

The second stage of the review involves an examination of practice and procedure in the social security jurisdiction. As part of this review, the Tribunal has commenced an evaluation of the particular procedures that apply to applications in this jurisdiction in the Victorian Registry of the Tribunal.

Pilots in the compensation jurisdiction

- Australian Capital Territory Reviewable Decision Protocol

This pilot was developed in consultation with the Commonwealth Compensation Liaison Committee which is comprised of both respondents (e.g. Comcare) and applicant representatives.

In May 2004 the Committee approached the Tribunal seeking support for the trialling of a 'Reviewable Decision Protocol'. The protocol applies to claims for initial liability and permanent impairment, incapacity benefits, denial of medical treatment, benefits associated with household help, attendant care and aids and appliances. It provides for the

appointment of a joint medical expert, a settlement conference and the payment of some legal fees and disbursements at the reconsideration stage.

The objectives of the pilot include:

- increased positive outcomes for claimants
- a reduction in disputed claims being lodged with the AAT
- reduced costs to the rehabilitation and compensation scheme overall.

The pilot was initially intended to operate in the Australian Capital Territory Registry from 1 October 2004 to 31 March 2005. To date there have been only a few protocol applications lodged with the Tribunal. The pilot will be extended for a further six months and an evaluation will be conducted at the conclusion of the trial period.

- Victorian/Western Australian Early Dispute Resolution pilot

This pilot is operating in the Victorian and Western Australian Registries from 1 September 2004 until a finish date to be agreed. It provides for the Tribunal to conduct an early settlement conference in applications that meet the criteria for the pilot.

An application falls within the pilot criteria if:

- the applicant is employed by the Australian Taxation Office, Centrelink or the Department of Defence
- the claim comes within one or more of the following categories:
 - initial liability for psychological injuries
 - rejected claim for medical treatment e.g. physiotherapy
 - rejected claim for aids and appliances
 - ceased pre-premium claims
 - rejected periods of incapacity
 - permanent impairment where the percentage is in dispute.

The applicant must also be represented by a law firm that is participating in the pilot.

The objectives of the pilot include:

- an examination of early intervention opportunities
- a reduction in the number of disputed claims proceeding to hearing
- a reduction in the duration of applications.

The pilot involves some variations to the Tribunal's procedures contained in the General Practice Direction. To date there have been few applications meeting all of the criteria. The Tribunal will conduct an evaluation of the pilot at the conclusion of the trial period.

Alternative Dispute Resolution Subcommittee

As was noted in Chapter 2, the *Administrative Appeals Tribunal Amendment Act 2005* introduced new provisions into the AAT Act relating to alternative dispute resolution (ADR) processes.

Prior to the commencement of those provisions, the AAT Act provided for the Tribunal to conduct conferences and mediations. ADR processes are now defined in the AAT Act to mean procedures and services for the resolution of disputes including conferencing, mediation, conciliation, neutral evaluation, case appraisal and other procedures or services specified in the regulations. No additional procedures or services were specified in the regulations at the end of the reporting period. The Tribunal may refer a proceeding or any part of a proceeding to any of these ADR processes.

The Tribunal has commenced an examination of its use of ADR in light of the amendments. A subcommittee comprising members and staff has been established to consider the broad range of issues that arise in relation to the implementation of the new provisions. One of the committee's principal tasks will be to develop a referral policy which will assist the Tribunal to identify when the different ADR processes may be suitable for use. The subcommittee will continue its deliberations and make recommendations to the Practice and Procedure Committee in the next reporting period.

Regular user forums and meetings with users

The Tribunal continued hosting regular user group forums to provide an opportunity for information exchange with key respondents, legal practitioners and other people with an interest in particular areas of the Tribunal's jurisdiction. In Sydney, separate biannual meetings were held in relation to the Tribunal's compensation, social security, veterans' affairs, migration and taxation jurisdictions. Other Tribunal registries held a single annual meeting or biannual meetings for all regular users, while others met on an ad hoc basis with representatives from particular user groups.

While the format of the user forums may vary from registry to registry, they all provide an excellent opportunity for the Tribunal to explain any changes to practice and procedure affecting parties. In addition, the Tribunal receives valuable feedback on areas where we are performing well and those where we might be able to make improvements. The Tribunal remains committed to being a user-friendly organisation that takes account of the needs of the people and organisations that use its services.

During the reporting year, the AAT formed a liaison committee with the Law Council of Australia. The first meeting was held in December 2004. Issues discussed included the AAT Amendment Bill and the Listing and Adjournment Practice Direction. The liaison committee plans to meet on a regular basis in the future.

Principal Registry staff in Sydney also met with representatives from the Australian Taxation Office and the Commonwealth Director of Public Prosecutions to discuss issues arising in the jurisdictions servicing those agencies and other operational matters.

User survey

One of the key targets contained in the 2004–05 Organisational Plan was to conduct a user survey. A tender process was conducted in January 2005 and Profmark Consulting was retained to

undertake the survey on behalf of the Tribunal. Profmark is a Sydney based firm that has done similar work for the Federal Magistrates Court, the Australian Government Solicitor, the Australian Securities and Investments Commission and other state and federal government bodies.

Survey instruments were finalised in April 2005 following consultation with members and staff. In the first two weeks of May, written surveys were sent out to individual applicants whose applications were finalised in 2004 for return by the end of May. Respondent agencies and legal practitioners were surveyed by telephone during the same period.

Preliminary results of the survey were provided in July 2005 with a full report expected to be released in August 2005.

Addressing non-compliance

Delay by the parties in meeting statutory deadlines, submitting documents or proceeding with conferences or hearings contributes towards delay in the finalisation of reviews, increases costs to both the parties and the Tribunal, and frustrates the non-offending parties.

Since March 2004, each registry has been required to submit a quarterly report, outlining instances of repeated delay, inaction or non-appearances by parties. Through a combination of local and national strategies, such as the holding of non-compliance directions hearings and the sending of notices to non-complying agencies and law firms, the Tribunal has managed to reduce problems such as non-appearance and failure to submit documents on time.

The Tribunal has further strengthened its strategies to combat non-compliance through the introduction of the Listing and Adjournment Practice Direction and through the issuing of standard directions by Conference Registrars since 16 May 2005.

Legal Advice Scheme

This project was commenced in Sydney in early 2004 and was later extended to Melbourne and Brisbane during 2004. The scheme also commenced in Perth in May 2005. Legal Aid solicitors are provided on a one day or half-day per week or fortnight basis and interview clients at AAT premises. The scheme has proved to be an outstanding success with well over 100 interviews taking place in Sydney to date. Attendance rates at interview have been in the order of 90% or higher compared to regular Legal Aid office interviews which have a usual 50% turn up rate. Feedback from clients who have accessed the scheme indicates that it is a valuable service, with some applicants successfully going on to receive a grant of legal aid.

It would appear there is no current need for a legal advice scheme in either Tasmania or the Australian Capital Territory due to the high level of advice and representation provided by community legal centres based in those regions.

In April 2005, the New South Wales Registry entered into an agreement with the Consumer Credit Legal Centre to provide advice and possible representation to applicants in matters relating to the release of a person from a tax debt. This is an area in which self-represented applicants are likely to benefit from assistance in the preparation and presentation of their matters.

Concurrent expert evidence study continued

In late 2002 the Tribunal's New South Wales Registry commenced a study of the use of concurrent evidence in hearings. The concurrent evidence procedure, sometimes colloquially referred to as 'hot tubs', involves taking sworn evidence from more than one expert at the same time. It provides a forum in which, in addition to providing their own evidence, expert witnesses can listen to, question and critically evaluate other

experts' evidence. The potential benefits of the use of concurrent evidence include:

- enabling the expert evidence to be better understood and tested, enhancing the Tribunal's capacity to make the correct or preferable decision
- assisting experts to fulfil their role as independent advisers assisting the Tribunal
- enhancing the efficient resolution of Tribunal proceedings by narrowing the issues in dispute and reducing hearing time.

Concurrent evidence procedures have been used in a number of cases before the Tribunal over recent years, as well as in some other courts and tribunals. However, to the best of the Tribunal's knowledge, no empirical studies have been conducted as to its effectiveness. The Tribunal decided to set up a study to assess the criteria for selecting cases as suitable for concurrent evidence, to refine procedures for the taking of concurrent evidence, and to assess the effectiveness of concurrent evidence procedures within the Tribunal.

The data collection phase of the study concluded at the end of March 2005. A total of 44 cases used concurrent evidence procedures at hearing, involving experts from fields including orthopaedics, psychiatry, rheumatology and neurology. A further 82 cases were selected as being suitable to use concurrent evidence but did not use the procedure as the matters were settled or otherwise finalised before hearing.

The evaluation process for the study has now commenced. Information has been gathered from members involved in the hearings, as well as parties' representatives and the experts themselves. This information will form the basis of the report on the study.

It is anticipated that the outcomes of the study will be discussed at the Tribunal's National Conference in October 2005. Any recommendations arising from the study will be considered by the Practice and Procedure Committee.

Management of taxation scheme matters

A taxpayer has the option of challenging an objection decision of the Commissioner of Taxation in either the AAT or the Federal Court.

Between January 1999 and June 2003, the AAT received in excess of 7400 applications regarding objection decisions relating to taxation schemes and employee benefit arrangements. The majority of these were subject to orders postponing the matters pending the outcome of test cases in the Federal Court on the various schemes and arrangements.

In December 2003 the AAT devised a case management strategy to deal with all matters not awaiting the outcome of an appeal. This strategy centred around the appointment of a Managing Member to coordinate applications relating to the same taxation scheme or type of arrangement. Managing Members have been appointed on the basis of their experience in the taxation jurisdiction. Where possible, they are attached to the Registry where the majority of applications reside.

Of the 7440 applications received before July 2003, some 6385 or 86 per cent have been finalised. Those that remain outstanding (1055) are the subject of ongoing appeals or are complex matters which have failed to settle and will require a full hearing before the AAT.

Since July 2003, the AAT has received an additional 1830 applications relating to taxation schemes and employee benefit arrangements, of which 1636 are yet to be finalised.

Recent reports from AAT registries and the Australian Taxation Office (ATO), indicate that there will continue to be a steady influx of lodgements relating to taxation schemes during the next financial year. These matters will require further intense case management by the AAT.

Constitution Committee

The Committee met in September 2004 and April 2005. During the reporting year the Committee

focused on the development of Tribunal guidelines on constitution. The Committee considered a range of issues relating to the scope and content of such guidelines and the impact of the amendments to the AAT Act and related legislation. It is anticipated the guidelines will be finalised in the next reporting period.

Tribunal partners

The Tribunal considers its partners to be government agencies, tribunals, courts, the legal profession and other individuals and organisations with whom it may develop a relationship that is not related to specific applications for review or other specific functions undertaken by the Tribunal. Partners may be other organisations involved in administrative review or interested in tribunal-related issues, or organisations with which the Tribunal develops cooperative arrangements for the sharing of resources.

The Tribunal's goal in relation to its partners, as outlined in its Organisational Plan 2004–05, is:

to work cooperatively with government, other tribunals, the legal profession and other interested groups.

This section of the report describes the activities undertaken by the Tribunal during the reporting period that are directed to meeting this goal.

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

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

During the reporting year the Tribunal liaised with the Attorney-General's Department on a wide range of matters relevant to the Tribunal and its operations. In particular, the Tribunal provided comments and information in relation to the proposed amendments to the AAT Act that were passed by Parliament in March 2005.

The Tribunal has continued to work with the Department to ensure that the appointment and re-appointment of members to the Tribunal takes place in a timely fashion.

The Tribunal has also liaised with a number of other departments and agencies including the Department of Veterans' Affairs, the Australian Taxation Office and Centrelink in relation to issues and proposals that would impact on the Tribunal and its operations.

Council of Australasian Tribunals

The Council of Australasian Tribunals (COAT) was established in 2002 as a peak body for Commonwealth, State, Territory and New Zealand tribunals. It aims to:

- facilitate liaison and discussion between tribunals, tribunal members and staff, and others interested in tribunals
- undertake projects and activities of relevance and assistance to tribunals.

COAT operates with a federal structure consisting of a National Council and Executive, together with State, Territory and New Zealand chapters.

On 5 June 2003 Justice Downes was elected Chair of COAT, a position that he has held since that time. He was elected as Chair for a third term at the annual general meeting of COAT held on 10 June 2005. The Tribunal's Registrar, Doug Humphreys, became the Secretary of COAT shortly after his appointment to the Tribunal in August 2003.

The Tribunal supported the work of COAT in a variety of ways during the reporting period. The Tribunal performed secretariat functions for COAT, including managing its finances, as well as arranging and providing administrative support for meetings of the National Council and the Executive. The Tribunal continued to host the COAT website and added a range of new material to the website including, in particular, information relating to State and Territory chapters and their activities.

During the reporting year, work has continued on COAT's first major project, the development of a practice manual for tribunal members. The manual is intended to be a readily accessible, generic 'how-to-do-it' guide that will assist tribunal members to undertake their duties, including hearings, effectively. It is anticipated that the manual will be published in the next reporting period. Tribunal staff have continued to provide project management assistance in relation to the project.

Tribunal members and staff have also been active in COAT's State and Territory chapters. Deputy President Stephanie Forgie and Member Regina Pertou are members of the committee of the Victorian chapter of COAT. Deputy President Deane Jarvis is a member of the committee of the South Australian chapter and Senior Member Geri Ettinger is a member of the committee of the New South Wales chapter.

Participation in heads of tribunals meeting

The President of the Tribunal and the presiding members of the other Commonwealth merits review tribunals met in June 2005 to discuss matters of common interest. The registrars of the tribunals also met in June and have communicated on a regular basis to discuss areas of common interest and to explore potential efficiencies through cooperative action between tribunals. At the meeting in June, a memorandum of understanding was signed dealing with opportunities for staff exchanges and shared training for members and staff.

Involvement in the Administrative Review Council

The President of the Tribunal is an ex-officio member of the Administrative Review Council (ARC), a body responsible for advising the Attorney-General on the operation of the Commonwealth administrative law system and recommending possible reforms. The President attended meetings and participated in the activities of the ARC during the reporting year. For further information relating to the ARC and its operations, please refer to the ARC's *Annual Report* (www.arc.law.gov.au).

Information Technology strategic alliances evaluation

The Tribunal has embarked on an information technology (IT) strategy to replace its existing case management system with a new system that will be the platform for its workflow and e-business practices into the future. The Tribunal recognises that other tribunals and courts have also commenced similar strategies and, therefore, it is prudent to evaluate possible alliances where business requirements are similar. To this extent, the Tribunal's IT Manager has become a member of the Chief Information Officer (CIO) panel of the Attorney-General's portfolio, a member of the Australian Government Information Management Office CIO Forum and a member of the Federal Court e-court strategy. These memberships will enable evaluation of opportunities for strategic alliances in IT systems.

Further, the Tribunal is currently assessing responses to its tender for a new case management system and will be selecting a system already installed in several other tribunals.

Cooperative arrangements with courts and other tribunals

The Tribunal has entered into a number of memorandums of understanding to provide facilities and services to other Australian Government agencies. These include:

- *Migration Review Tribunal* (MRT)—the MRT has registries in Melbourne and Sydney. In Adelaide, Brisbane and Perth, under a Memorandum of Understanding, Tribunal staff receive applications and handle enquiries on behalf of the MRT. The Tribunal also provides accommodation and hearing room facilities for MRT members, including hearing room assistance and video-conferencing facilities. The MRT pays an agreed amount to the Tribunal to provide these services.
- *National Native Title Tribunal* (NNTT)—during the reporting year the Tribunal provided additional accommodation to the NNTT from within its Adelaide premises on a cost reimbursement basis.

- *Professional Services Review Tribunal (PSRT)*—by arrangement with the Department of Health and Ageing, the Tribunal has provided an administrative and registry service to the PSRT, which reviews determinations of the Professional Services Review Committees regarding inappropriate practices in the provision of services under the *Health Insurance Act 1973*. The District Registrar of the Tribunal's Australian Capital Territory Registry is also Registrar of the PSRT. The PSRT arrangement will cease when its final matter is closed during 2005–06.
- *Australian Institute of Criminology*—the Tribunal provides personnel and payroll services to the Australian Institute of Criminology on a fee-for-service basis.
- *Federal Court of Australia*—the Tribunal shares a joint registry with the Federal Court in Hobart. The Tribunal reimburses the court for the staff and management costs required to service the needs of the Tribunal in that registry.
- *Federal Magistrates Court*—the Tribunal shares its Brisbane Commonwealth Law Courts premises with several magistrates and staff from the Federal Magistrates Court. The Court operates independently of the Tribunal, with its tenancy having been formally transferred to the Court in 2003–04. Further space was made available to the Federal Magistrates Court in the reporting year.

Raising awareness of the Tribunal and its role in administrative law

Tribunal participation in education, training and other activities

Members and senior staff of the Tribunal were actively involved in organising and participating in a variety of conferences, seminars and workshops relating to the Tribunal and its work during the reporting year. These activities enhanced community awareness of the Tribunal, and increased knowledge of the Tribunal and its

procedures amongst advocates and other persons appearing before the Tribunal.

Members gave presentations at conferences and seminars, served on a number of committees and were involved in training and education programs. Members also contributed material on the Tribunal and its operations for a range of publications. The profiles of the Tribunal's members included in Appendix 1 provide specific information about activities of this kind undertaken by members.

Activities in which staff were involved included:

- a presentation, 'Alternative dispute resolution process in the AAT in the light of recent amendments to the Administrative Appeals Tribunal Act 1975', at the 30th Anniversary Conference, Institute of Arbitrators and Mediators, Australia, in May 2005
- a presentation, 'Rules and practices for accommodating self-represented litigants at the registry and pre-hearing', at the Australian Institute of Judicial Administration and the Federal Court of Australia's Forum on Self-represented Litigants in Sydney in September 2004
- a presentation, 'Future directions', at the Practice and Procedure session, Legalwise seminar, in October 2004
- an information session, 'Access to Justice: The role of State and Commonwealth Ombudsmen and Commonwealth Merits Review Tribunals', for community representatives at Law Week in Mount Gambier in May 2005
- chairing Law Society of SA continuing legal education session, 'Impact of awards of damages on social security legislation', in Adelaide in August 2004.

Inaugural Administrative Appeals Tribunal Mooting Competition

During the reporting period, the Tribunal organised a mooting competition for teams of law students from universities in New South Wales and the Australian

Capital Territory. A total of 38 students participated in the competition that was held over four knockout rounds. The aims of the organising committee were to raise the Tribunal's profile among students and to give future practitioners experience in presenting a matter to a tribunal conducting merits review of administrative decisions.

Teams—consisting of Senior and Junior counsel and an optional research assistant—were issued with detailed factual scenarios each round from which they were required to prepare submissions and formulate oral arguments to present to Tribunal members who adjudicated the moots. The areas of administrative law covered included freedom of information, civil aviation and immigration.

A team from the University of Sydney was the winner of the 2005 competition. The Grand Final was conducted before a panel of adjudicators comprising two Tribunal members and an administrative law academic.

The Tribunal intends to build on the success of the inaugural AAT Mooting Competition by repeating the competition in 2006.

Sponsoring work experience placements

The Tribunal's registries hosted a number of work experience placements for school-age and university students during the year. The Tribunal recognises that it can provide these opportunities to students and does so to the extent that staff availability and accommodation will allow. Work experience placements comprised school children undertaking their first days in a working office, graduate and near-graduate law students gaining required credits to complete their degrees, and a German law student completing post-graduate studies in alternative dispute resolution. Work placements generally range from two weeks for school-age students to three months for law graduates.



Chapter 5

Our people and our organisation

44 Our people

50 Our organisation

Chapter 5: Our people and our organisation

Our people

The Tribunal's goal in relation to this key result area, as outlined in its Organisational Plan 2004–05, is:

to maintain professional standards, a positive, safe and productive workplace that values diversity.

This section of the report describes the key strategies and targets which the Tribunal has adopted in seeking to achieve this goal. It also provides information in relation to the activities of the Professional Development Committee and more general information relating to human resource management in the Tribunal.

Training and development

There have been many initiatives undertaken during the reporting year aimed at maintaining and enhancing the skill and knowledge base of members and staff. These include:

- meetings of the Professional Development Committee
- the National Client Service Officers' Conference in Hobart in October 2004
- training needs analysis involving staff in all registries
- the development of an internal Staff Learning and Development Calendar
- training on mediation conducted in liaison with LEADR (Association of Dispute Resolvers) in the Tribunal in January 2005
- professional development seminars for members and staff on issues of interest
- the establishment of a Melbourne Members' Professional Development Program
- the extension of the Sydney Members' Professional Development Program to include the Tasmanian Registry and the Australian Capital Territory Registry

- biannual District Registrars' meetings
- attendance of members and staff at relevant external conferences, including the Australian Institute of Judicial Administration's Tribunals' Conference and the annual conference of the Australian Institute of Administrative Law
- participation of members and staff in relevant external training courses run by the Australian Public Service Commission, Australian Government Solicitors, and others
- sponsorship of one senior staff member to attend the Public Sector Management course.

The staff training needs analysis was an important initiative as information gathered from this process will continue to be used to develop and refine an organisation-wide staff learning and development program. This program is aligned and linked with the Tribunal's organisational plan and reflects the values of the Tribunal.

Several priorities for staff learning and development have been identified through reviewing the training needs analysis data including: refinement of the staff induction program, cultural awareness and diversity training, updates on legislation, policy, practice and procedures and developing interpersonal and leadership skills.

Professional Development Committee

The Professional Development Committee considers, and makes decisions on, issues relating to the professional development of Tribunal members. The Committee comprises the President, a diverse group of members from different Tribunal registries with an interest in professional development, and the Registrar. The Committee was supported during the reporting year by staff of the Tribunal's Policy and Research Section, and the Learning and Development Officer.

The Committee met in September 2004 and April 2005. Issues considered by the Committee included:

- professional development scheme and activities for Tribunal members

- the nature and content of the induction program for new members
- the development of a practice manual for Tribunal members
- AAT internal conference program
- the use of decision templates
- the National Conference to be held in October 2005.

Significant developments that occurred during the reporting period relating to matters considered by the Committee are outlined separately in this section of the report.

Professional development scheme for Tribunal members

At the Professional Development Committee Meeting held on 6 April 2005, it was agreed that the proposed members' professional development program, including both mentoring and appraisal schemes, should be implemented.

The endorsement of the program followed extensive planning and consultation with members which was overseen by a subcommittee.

The consultation process began with Mary Holmes, Senior Training Advisor and Head of Tribunal Training of the Judicial Studies Board (United Kingdom) visiting all registries to meet with members and discuss the model schemes used in that jurisdiction. Feedback from members, including written submissions, led to substantial modifications to the templates provided by Ms Holmes. A program has been developed which is suited to the needs of the Tribunal and its members.

The adoption of the program is an important development for the Tribunal, of which all members can be proud. It further enhances the role of the Tribunal as a leading Australian tribunal adopting the highest standards of performance and efficiency.

Implementation of the program will begin with the appointment of an Appraisals Coordinator from one of the Deputy Presidents or Senior Members,

and a Mentoring Coordinator from the larger pool of all Tribunal members. Following the appointment of the coordinators, initial training on the mentoring and appraisals schemes will be conducted, beginning with a briefing to all members at the National Conference.

Induction program for new members

On 27 May 2004 the Attorney-General announced a round of appointments and reappointments to the Tribunal that would take effect on and after 1 July 2004. With a number of new members among the appointees, the Tribunal conducted a group induction program for the new members in Sydney in early July, 2004. The program was designed to introduce new members to the Tribunal, its practices and procedures, major jurisdictions, staffing and resources, and the expectations and responsibilities of Tribunal members. The program was delivered by experienced Tribunal members and senior staff.

On 15 June 2005 the Attorney-General announced a round of appointments and reappointments to the Tribunal that would take effect on and after 1 July 2005. Preparations have commenced for an induction program to be held in Adelaide in late July 2005.

Tribunal Practice Manual project

The Tribunal has identified the development of a practice manual for Tribunal members as one of its strategies. The manual is intended to be a resource that will provide practical guidance to Tribunal members on performing their duties under the AAT Act and under other legislation that confers jurisdiction on the Tribunal.

As was noted in Chapter 4 of this report, the Council of Australasian Tribunals (COAT) is currently developing a practice manual for tribunal members. It is proposed that the manual will comprise three parts:

- generic principles of tribunal practice—to be produced by COAT

- principles relating to the operations and jurisdiction of each particular tribunal—to be prepared by each tribunal
- personal notes—to be prepared by each individual member.

The Tribunal practice manual would form the second part of an overall practice manual.

Drafting of the Tribunal-specific part of the manual will follow publication of the first part of the manual to be produced by COAT. The Professional Development Committee has established a subcommittee to oversee the project.

Tribunal conferences

Client Service Officers' Conference

The biennial Client Service Officers' Conference was held in Hobart from 18 to 20 October 2004. The conference provided an opportunity for staff located in registries across the country to meet and share information. The conference was opened by the President and was attended by approximately 45 staff.

In keeping with the Conference theme 'Moving Forward', proceedings on day one of the conference included updates and progress reports on major initiatives from all registries and a workshop dealing with major developments in policy and procedure. The second day of the conference was dedicated to a workshop on developing staff's capabilities to satisfy user needs. Concurrent sessions on the third day provided participants with the opportunity to explore areas of professional interest ranging from ethical and legal challenges, leadership and effective team work.

The program was evaluated and, based on participant feedback, the agenda for the next conference will include more breakout sessions targeted to the needs of specific groups.

District Registrars' biannual meetings

District Registrars' national meetings are held to coincide with the Tribunal Committee Meetings. During the reporting year, District Registrars' meetings were held in Brisbane in September 2004 and in Sydney in April 2005. The purpose of the meetings is to improve internal communication, promote consistency in national practice and procedure, and support both the local and overall organisational needs of the Tribunal.

A positive and diverse workplace

Aboriginal and Torres Strait Islander traineeship

The Tribunal has implemented its Indigenous Employment Strategy. In April the Tribunal's first Aboriginal and Torres Strait Islander trainee commenced a one-year clerical traineeship, which provides an opportunity to learn basic clerical job skills and to prepare for a career in the Australian Public Service, or elsewhere. While the Tribunal is unable to offer guaranteed follow-on employment at the end of the traineeship, it is hoped that the trainee will be in a position to compete for any appropriate vacancies that might arise in the Tribunal.

A cultural awareness program was conducted for the Queensland Registry with other training scheduled for late 2005.

Workplace diversity

The Tribunal, through its Workplace Diversity Plan, recognises that all people have different qualities, skills, qualifications, experience and attitudes to work, and that valuing and making proper and effective use of these differences can improve the workplace for individuals, and enhance the overall performance of the Tribunal.

The plan can be viewed from the Tribunal's website at: www.aat.gov.au/CorporatePublications/WorkplaceDiversityPlan.htm.

The Tribunal's Workplace Diversity Committee, which comprises both members and staff, met several times during the reporting year.

The Committee progressed and finalised the implementation of the Aboriginal and Torres Strait Islander traineeship and the Workplace Harassment Contact Officer selection and training. Minutes from the meetings are made available to members and staff via the intranet. Appendix 2 lists the equal employment opportunity categories of staff, including the number of Aboriginal and Torres Strait Islander employees, where such information has been volunteered by staff.

Contribution to Access and Equity Report

The Tribunal made its initial contribution to the Department of Immigration and Multicultural and Indigenous Affairs' *Access and Equity Report 2004: Progress in implementing the Charter of Public Service in a Culturally Diverse Society*. The Tribunal was acknowledged as meeting all of the relevant performance indicators for 2004—of which half were determined to have been met to a high standard.

Disability Action Plan

The Tribunal's plan builds on and endorses the Tribunal's commitment to the principles of workplace diversity and equality of access. It addresses issues such as ensuring that electronic and printed material is available in appropriate formats and that standards of client service set out in the Service Charter, including those relating to the complaints process, are relevant to people with disabilities. When needed, the Tribunal provides applicants with electronic assistance for the hearing-impaired, information in multi-media options for sight-impaired people, and aids for those with a physical disability. Reasonable adjustment provisions cater for special needs in employment, induction and training of members and staff. The plan can be viewed from the Tribunal's website at: www.aat.gov.au/CorporatePublications/DisabilityActionPlan.htm.

Commonwealth Disability Strategy

The Commonwealth Disability Strategy is designed to help agencies improve access for people with disabilities to their services and facilities. In the

context of the strategy, the Tribunal is assessed as performing the roles of an employer and a provider. Appendix 8 provides a summary of the Tribunal's performance in this area during the 2004–05 year.

Workplace Harassment Contact Officer network

A process was completed under the Workplace Diversity Plan to appoint new Workplace Harassment Contact Officers (WHCOs). Nine nominations were received, including for the first time an appointed Member of the Tribunal. Having completed training conducted by the Australian Public Service Commission, the new WHCOs are now operating as part of a national network which enables staff and members to contact any member within the network.

All members and staff of the Tribunal are entitled to a workplace free from intimidation and harassment. The Tribunal's commitment to the prevention and elimination of all forms of harassment in the workplace is supported by its Prevention and Elimination of Workplace Harassment Policy. This policy sets out the Tribunal's expectations of managers, members and staff in preventing and dealing with workplace harassment and encourages all managers and supervisors in particular to be familiar with, and to actively promote and support, the Tribunal's policy and strategies for dealing with harassment.

Tribunal Benevolent Fund

A benevolent trust managed by elected trustees was established in late 2003. This trust, funded by voluntary contributions from staff and members, is available to assist in circumstances where a staff member or a member of their immediate family suffers misadventure or illness from any cause. The trust received only one request for assistance by a member of staff in the 2004–05 year.

Tribunal sporting achievements

The Tribunal encourages a healthy lifestyle for staff by providing contributions towards the registration of Tribunal teams in various sporting competitions

and activities. This year the Victoria Registry walking and running teams had excellent results, finishing in second and fourth places in the Melbourne City Sports Autumn 2004 Corporate Cup. The New South Wales Registry's 'AATackers' volleyball team commenced as a rookie team in the Sydney lunchtime competition.

Human resource management

Workplace planning, staff retention and turnover

Some of the significant developments during the reporting period relating to workplace planning included:

- commencement of a major review of classifications of supervisors and client service officers in all registries and staff within the Member Support Teams. The review aims to evaluate relativities between AAT positions and comparable positions in other agencies
- a continued emphasis on timeliness of performance appraisals and monitoring.

The Tribunal's training and development and performance management programs foster staff retention and professional development. The Tribunal's ongoing staffing complement was again quite stable, leading to increased familiarity with duties and enhanced performance.

Individual and agency-wide employment agreements

The AAT's current Agency Agreement commenced on 1 July 2003. The three-year certified agreement, expiring on 30 June 2006, offers four per cent annual salary increases. The agreement continues to promote a high standard of client service and the continual development of staff. It seeks to improve productivity and efficiency while reducing cost through specific in-house programs and initiatives.

During the year three staff members, the Tribunal's only Senior Executive Service employee and two Executive Level 2 staff, were covered by individual Australian Workplace Agreements. Each of

these agreements provided for the payment of a performance bonus linked to a performance agreement. In addition, the Registrar of the Tribunal, as a statutory appointee, is eligible for a performance bonus under the Principal Executive Officers Determination set by the Remuneration Tribunal. As only four employees in total are eligible, the quantum of individual bonuses paid is not published for privacy reasons. The total value of bonuses paid by the Tribunal for the 2004–05 year was \$39,285.

Salary ranges for all staff covered by Australian Workplace Agreements are included in Table 2.1 in Appendix 2. Other conditions of service are similar or identical to those contained in the Agency Agreement.

The Tribunal does not have a performance pay or bonus system for employees covered only by the Certified Agreement.

Salary packaging

Salary packaging was made available to members and staff through the introduction of two relevant policies, the first of which is administered externally by the commercial firm of McMillan Shakespeare and the other administered internally by Human Resources. Twelve employees took up the opportunity to access salary packaging arrangements during the year.

Provision of personnel and payroll services to Australian Institute of Criminology

The Tribunal through its Human Resources and Finance sections continues to provide personnel and payroll services to the Australian Institute of Criminology through a Memorandum of Understanding.

Performance Management Program

In accordance with the Tribunal's Performance Management Program all staff have performance agreements. Depending on their performance during the appraisal period staff are able to advance through their salary pay scale, up to the

maximum of the salary range. The program is linked to the Agency Agreement. Appraisals were completed by 30 June 2005 for all staff except those who were on leave at the appraisal time.

Twenty six staff were eligible for performance-related salary advancement (i.e. an increment) and these were paid in July 2005, where possible. Staff also have individual development plans linked to their performance agreements which identify training and development needs.

Senior Executive Service Officer remuneration

The Tribunal has only one Senior Executive Service position, the Assistant Registrar. Remuneration for that position is based on comparisons with the remuneration for staff in similar Australian Government agencies. The remuneration package allows the occupant to cash out certain limited items in accordance with common Australian Government practice.

Non-salary benefits

Under the certified agreement, staff were provided with the following non-salary benefits:

- Two days of paid leave is provided to most staff between Christmas and New Year. A skeleton staff operates to maintain basic registry functions.
- All ongoing staff are eligible to apply for study assistance. Approved students have access to assistance that can include limited time off work for attendance at lectures, tutorials and examinations and may include full or partial reimbursement of fees and costs. Fifteen staff were accredited as approved students under the Tribunal's study assistance scheme during 2004–05. Approved courses included information technology, accounting, workplace training, human resources management, business, and various areas of the law including public law, administration and policy, and tribunal procedures. The cost of reimbursing study fees and charges was less than \$17,100 and 298 study hours were approved for all

purposes such as attendance at lectures and tutorials, for exam leave and study leave.

- Two additional weeks of paid maternity/parenting leave are provided.
- Health and wellbeing benefits, such as influenza vaccinations, were provided.

Productivity gains

The Tribunal is undertaking several staged actions to further improve productivity across its staffing operations. The Learning and Development Officer has developed a broad-based learning and development program which will aim to address the identified learning needs of employees. Specific training to improve personal and office-wide skills will be targeted.

Work reorganisation in the registries continues. In Queensland, a registry work reorganisation pilot in which a case officer looks after matters in their entirety from application to finalisation has been implemented. This continues the arrangements set up in New South Wales and Western Australia.

Training database

Tribunal staff have intranet access to a reference database of training and development opportunities available across Australia. The Learning and Development Officer maintains a database recording staff attendance at training and development courses.

Occupational health and safety

The Tribunal gives priority to the health and work safety of its members and staff. To assist in monitoring occupational health and safety (OH&S), and in accordance with Comcare requirements, the Tribunal has a National Health and Safety Committee, with staff representatives from each registry. The committee meets regularly by telephone, and agenda items include site reports, incident reporting and recent information releases from Comcare. Health and Safety Representatives are sought on a voluntary basis from interested

staff who then attend appropriate training from providers including Comcare.

Workplace assessments are undertaken by the Commonwealth Rehabilitation Service, or similar providers, for the benefit of staff where problems are identified, including posture issues, workstation set-up and equipment requirements. Remedial action is implemented. Case management of compensable matters is conducted in-house or outsourced, depending on the location and the complexity of the matter.

A new internally administered injury management scheme aimed at addressing low cost injuries has been trialled. The scheme provides injured employees with an option to seek immediate reimbursement, through the Tribunal, for costs outlaid in managing their injuries, but without forgoing their entitlement to lodge a formal compensation claim through Comcare at any time in the future. This scheme facilitates quick resolution of minor work-related injuries.

The Comcare OH&S Incident Reporting Guidelines are in place along with Tribunal instructions. During the year there were no reportable incidents nor were there any investigations into operations of the Tribunal.

Ethical standards

Tribunal staff are required to act in accordance with the Australian Public Service (APS) Values and the APS Code of Conduct.

The APS Values and the APS Code of Conduct are available to staff on the intranet and are referred to in Tribunal publications. Recruitment guidelines include information on the APS Values and APS Code of Conduct.

Our organisation

The Tribunal's goal in this area, as outlined in its Organisational Plan 2004–05, is:

to be an organisation with modern systems and processes that maximise the efficient and effective use of Tribunal resources.

This section of the report outlines achievements of the Corporate Support, Information Services and Technology, and Policy and Research sections in pursuit of the above goal. It also provides more general information on the Tribunal's administration and governance.

Organisational Plan

In 2004–05, the Tribunal developed the Organisational Plan, which set out the Tribunal's:

- vision, mission and values
- key result areas
- goals
- strategies
- key targets
- outcomes.

The plan was developed in consultation with all staff and members. The plan will be reviewed annually. A copy of the plan, including a statement of the Tribunal's achievements against the plan, is at the end of Chapter 1.

Corporate Support

The Corporate Support area of the Tribunal is divided into the Financial Management Section and the Human Resource Management Section.

Financial management

Audited financial statements appear as part of this annual report from page 57.

The financial statements include reports on the outputs identified in the 2004–05 Budget.

These outputs are:

- applications finalised without hearing
- applications finalised with hearing.

The 2004–05 financial year was a year of planning and preparation for the Tribunal in advance of a major acquisition that will be finalised in 2005–06. A tender evaluation commenced and progressed through the year for a new case management system. This is a major purchase for the Tribunal replacing an aged system called AATCAMS.

Risk management

Audit and fraud control

The Tribunal's Audit Committee meets periodically to oversee the audit policy and plans for the forthcoming year. Its responsibilities include providing advice to the Registrar on a range of matters, including the financial statements provided to the Auditor-General and fraud risk assessment, and commissioning internal audits on operational activities.

The Tribunal has in place approved risk assessment and fraud control plans and procedures that provide for fraud prevention, detection, investigation and reporting. The Tribunal's Chief Executive Instructions have been reviewed and were reissued during the 2004–05 financial year. These Chief Executive Instructions have been used as a model for several other agencies' instructions.

The Tribunal's independent internal auditor reviews each year the operations at most risk, and at most common risk, and undertakes audit activities related to these operations. During the reporting year, the internal auditor undertook audits of the Queensland, New South Wales and Victoria Registries. Areas scrutinised included payments, receipting, bank accounts, payroll, attendance records and hospitality. Each year audits of Principal Registry Finance and Human Resources operations are also undertaken. No major risks were identified as a result of the audits.

No reports on Tribunal operations were published by the Auditor-General during the financial year.

Insurance

The Tribunal's property and assets are insured through the Commonwealth's Comcover arrangements. In general terms, the Tribunal has a low risk of insurance exposure and a limited likelihood of major disruption to its services, although cover is provided should that occur. In line with a general trend in the industry, the insurance premium decreased this year. The Tribunal's insurance cover has been increased in respect of its fitout and property-related items.

Security

The Tribunal has fee-for-service agreements with both the Australian Protective Service and Chubb Security Pty Ltd to provide ad hoc security guarding for Tribunal hearings on an as-needed basis. During the year specific guarding services were sought on several occasions nationally as a precautionary measure but no incidents affecting security actually occurred in any Tribunal hearing or in any registry. The Tribunal's premises are access-controlled and duress alarms are installed (with monitoring by Chubb Security Pty Ltd) to protect staff and members in the event of any incident during hearings or conferences.

The Tribunal has entered into an agreement with the Family Court of Australia to use its court rooms and security arrangements if the Tribunal becomes aware of a particular risk or threat to the conduct of a hearing. Court rooms at several Family Court Registries were used during the year for this purpose without incident.

The Australian Protective Service undertakes security vetting of staff whose duties require a security clearance in compliance with the *Commonwealth Protective Security Manual*.

Property

The Tribunal operates from commercially leased premises in Adelaide, Canberra, Melbourne, Perth and Sydney. It occupies premises in the Commonwealth Law Courts buildings in Brisbane and Hobart. Leases on all commercial sites, except Canberra, continue until mid to late 2005–06.

The Canberra lease was renewed, after a market-testing exercise for a 10-year term, commencing 1 July 2004. A small refurbishment of the premises is planned to ensure that it remains a workable fit-out for another decade.

The Sydney and Melbourne leases expire in December 2005. A property consultant was engaged from a public tender exercise and undertook open-market property searches in both cities for the most suitable leasing deals to enable the Tribunal to operate from affordable premises on leases of up to 10 years duration. As a result of these exercises, the Tribunal has agreed in principle to taking new leases at its existing premises in both cities. Approvals and details of the leases are being settled in the intervening period.

Leases in Adelaide and Perth fall due in early- to mid-2006. After market-testing exercises in both of those cities the Tribunal is negotiating two new leases-in-principle. In Perth the registry will move to another building close to the current location, where a better value for money lease will be achieved. In Adelaide the registry will, at this stage, remain in its current premises.

Purchasing

Although the Tribunal has a limited purchasing profile, the core principles of the new *Commonwealth Procurement Guidelines* and best practice guidelines are observed; and the Tribunal ensures that purchases are in accordance with the Chief Executive Instructions. The Chief Executive Instructions have been reviewed to ensure that they remain current (conforming with the new

procurement guidelines) and valid documents for ongoing use by staff.

For major purchases or contracts, the Tribunal uses competitive methods to seek value for money, as well as providing for proper and effective competition. All significant purchases are put to open or, if appropriate, selective tender and, as is required by the Tribunal's purchasing guidelines, at least three quotes are ordinarily obtained for other minor services or goods when required.

In 2004–05, all purchases were gazetted as required. Overview details of all contracts of \$100,000 or more current in any one calendar year are available through the Tribunal's website in accordance with the Senate Order on Agency Contracts.

With regard to information technology purchases, the Tribunal generally uses the Endorsed Supplier Arrangement to source likely suppliers of goods and services. Adherence to the principle of using only endorsed suppliers has resulted in some firms joining the Endorsed Supplier list in order to tender for Tribunal business.

Exempt contracts

There were no contracts in excess of \$2,000 (inclusive of goods and services tax) or standing offers that were exempt from being published in the Purchasing and Disposal Gazette on the basis that they would disclose exempt matters under the *Freedom of Information Act 1982*.

Consultants

The Tribunal employs consultants when the required skills are not available within the Tribunal or where the capacity to undertake the work in a specialist area was not available. During 2004–05 fourteen new consultancies were let. Actual expenditure on all new consultancies during the year was \$122,209. In addition, during 2004–05 five consultancies carried through from the previous year involving actual payments of \$185,000.

Consultants are engaged using the methods contained in the Chief Executive Instructions for the purchasing of services. Open tender, select tender or direct sourcing may be used depending on the circumstances, timelines and the particular need. During 2004–05 consultancies were let for specialist property advisory services, for technical advice on property options, internal auditing services, specialist training and training advisory services, and for the undertaking of and reporting on the AAT User Survey.

Appendix 9 sets out the new consultancies let by the Tribunal during the year for which the total contract value (inc GST) for each exceeds \$10,000. Appendix 9 also sets out the number of, and total expenditure on, consultancies valued at more than \$10,000 each for the three most recent reporting years.

Contracting out

During the reporting year, the Tribunal did not contract out to another organisation the delivery of any government activities that it had previously performed.

Discretionary grants

The Tribunal has no discretionary grant programs.

Advertising and market research

The Tribunal has no item to declare under section 311A of the *Commonwealth Electoral Act 1918*. Non-campaign advertising expenditure for the year was \$6951 paid to hma Blaze Pty Ltd for the newspaper advertising of tenders and for recruitment advertisements.

Environmental performance

Under section 516A of the *Environment Protection and Biodiversity Conservation Act 1999*, agencies are required to report on ecologically sustainable development and environmental matters. The Tribunal is a review body and, as such, does not administer policy that has any major detrimental effect on the environment. The Tribunal attempts to limit its impact on the environment in day-to-day administrative

functions by ensuring that energy usage and wastage of resources are minimised. Results to date are encouraging in that energy usage is moderate compared with usage by similar organisations.

The Tribunal is a partner in the development of an environmental management system (EMS) for Commonwealth Law Courts buildings nationally. An EMS review of several Law Courts buildings has been conducted and a first-stage implementation plan is being prepared for consideration in 2005–06. A policy for national use will be developed subsequently. In addition, the landlord of the Tribunal's Sydney registry actively promotes energy and resource conservation within the building and seeks continual reduction in consumption of these items.

General energy consumption fell again by five per cent during the reporting year due to the efforts and diligence of staff in monitoring electricity usage. Petrol consumption rose slightly due to a change in fleet composition. As the number of executive cars is small, changes in car models can affect general consumption levels. The Tribunal has no cars for general office use.

Information Technology

The Information Technology department has developed and managed several significant projects during the year.

Case Management System

The most significant project was the development, and planned implementation, of a new case management system. The current system, known as AATCAMS, has served the Tribunal well for almost 20 years; however, it is not able to provide the necessary functionality to support the Tribunal's projected move into electronic business methods. It is also unable to utilise current desktop computing technology to provide efficient in-house workflow processing of applications to the Tribunal.

The first major stage of the project was the development of a detailed user requirements

specification. This work was managed by the IT department with the assistance of e.Law, a consulting firm that specialises in court and tribunal systems solutions.

The second stage was the formal open-market tender advertising for the new system. At the end of the financial year the Tribunal is evaluating a short list of responses and expects to choose a preferred supplier during the first quarter of 2005–06.

Communications Tender

The IT department developed a tender seeking interest from providers for all of the Tribunal's voice, data and Internet communications services. Current contracts were ending and an opportunity existed to make considerable cost savings without any dilution in the quality of services provided. After an extensive analysis of the responses the preferred suppliers were confirmed with the financial benefits to begin from 1 July 2005.

Business Continuity Services

As part of its IT continuity arrangements the Tribunal is installing new backup tape drive technology to improve the efficiency of backup and recovery of its systems. It also installed a new system for filtering spam e-mail.

As mentioned in Chapter 4, the Tribunal is regularly involved in forums with other tribunals and courts, the Attorney-General's Department and with the Australian Government Information Management Office to continually monitor opportunities for adopting IT practices that will assist in enabling whole of Government IT efficiencies.

IT Steering Committee

The IT Steering Committee is an advisory and review body reporting to the President on strategic IT projects. The committee met twice during the year (September 2004 and April 2005) to review each of the projects listed above. It agreed the recommendations and advised approval of them.

Library and information services

The Library Committee meets twice yearly to discuss issues relating to the management and maintenance of the Tribunal's library resources. During the reporting year, the Committee finalised a Collection Development Policy, established an acquisitions sub-committee to make decisions on the purchase of subscriptions and text books and focused its attention on updating the library's book collection, including improving members' access to the materials needed for the performance of their work.

Achievements of the library network team in the reporting year have included:

- acquisition, cataloguing and distribution of new text and reference book materials in response to Library Committee recommendations for the collection
- an upgrade to the menu and the addition of alternative formats for documents posted on the Tribunal website in order to meet W3C (World Wide Web Consortium) guidelines and Australian Government website standards
- regular improvement to the intranet and Internet sites particularly in response to user feedback and change requests
- organisation of multiple online legal research training sessions to members and staff in the use of the LexisNexisAU database and the provision of individual training on request
- delivery of library orientation training for new members
- ongoing management of the process of electronic delivery of Tribunal decisions to publishers, government departments, agencies and other interested parties.

Policy and Research Section

The Policy and Research Section provides the President, Registrar and Assistant Registrar with advice and assistance in relation to legal and policy issues affecting the Tribunal. It also

provides information and assistance to Tribunal members and staff in relation to relevant legislative changes, case law developments and practice and procedure issues. The primary responsibilities of the section include:

- undertaking research and preparing advice, correspondence and papers relating to matters affecting the Tribunal
- monitoring and coordinating appeals from decisions of the Tribunal
- producing and maintaining resource materials, including the Tribunal's jurisdiction list and procedure manuals
- coordinating reporting on Tribunal performance, including producing statistical information on the Tribunal's workload
- managing projects and providing support to Tribunal committees
- assisting with the delivery of training for Tribunal staff.

Key achievements for the reporting year included:

- successful implementation of system changes required by amendments to the AAT Act
- provision of information to members and staff relating to the amendments to the AAT Act
- high level of support provided to the Practice and Procedure Committee and the Constitution Committee
- preparation and presentation of regular training for Tribunal staff in relation to practice and procedure issues.

The section comprises four staff: the Manager, Senior Research Officer and two Legal Research Officers.



Financial Statements for the year ended 30 June 2005

- 58 Independent Audit Report
- 60 Statement by Chief Executive Officer
- 61 Statement of Financial Performance
- 62 Statement of Financial Position
- 63 Statement of Cash Flows
- 64 Schedule of Commitments
- 65 Schedule of Contingencies
- 66 Schedule of Administered Items
- 68 Notes to and forming part
of the Financial Statements



INDEPENDENT AUDIT REPORT

To the Attorney-General

Scope

The financial statements and Chief Executive's responsibility

The financial statements comprise:

- Statement by the Chief Executive and Chief Finance Officer;
- Statements of Financial Performance, Financial Position and Cash Flows;
- Schedules of Commitments and Contingencies;
- Schedule of Administered Items; and
- Notes to and forming part of the Financial Statements

of the Administrative Appeals Tribunal for the year ended 30 June 2005.

The Administrative Appeals Tribunal's Chief Executive is responsible for preparing financial statements that give a true and fair presentation of the financial position and performance of the Administrative Appeals Tribunal, and that comply with accounting standards and other mandatory financial reporting requirements in Australia, and the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*. The Administrative Appeals Tribunal's Chief Executive is also responsible for the maintenance of adequate accounting records and internal controls that are designed to prevent and detect fraud and error, and for the accounting policies and accounting estimates inherent in the financial statements.

Audit approach

I have conducted an independent audit of the financial statements in order to express an opinion on them to you. My audit has been conducted in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing and Assurance Standards, in order to provide reasonable assurance as to whether the financial statements are free of material misstatement. The nature of an audit is influenced by factors such as the use of professional judgement, selective testing, the inherent limitations of internal control, and the availability of persuasive, rather than conclusive, evidence. Therefore, an audit cannot guarantee that all material misstatements have been detected.

While the effectiveness of management's internal controls over financial reporting was considered when determining the nature and extent of audit procedures, the audit was not designed to provide assurance on internal controls.

I have performed procedures to assess whether, in all material respects, the financial statements present fairly, in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, accounting standards and other mandatory financial reporting requirements in Australia, a view which is consistent with my understanding of the Administrative Appeals Tribunal's financial position, and of its performance as represented by the statements of financial performance and cash flows.

The audit opinion is formed on the basis of these procedures, which included:

- examining, on a test basis, information to provide evidence supporting the amounts and disclosures in the financial statements; and
- assessing the appropriateness of the accounting policies and disclosures used, and the reasonableness of significant accounting estimates made by the Chief Executive.

Independence

In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the ethical requirements of the Australian accounting profession.

Audit Opinion

In my opinion, the financial statements of the Administrative Appeals Tribunal:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*; and
- (b) give a true and fair view of the Administrative Appeals Tribunal's financial position as at 30 June 2005 and of its performance and cash flows for the year then ended, in accordance with:
 - (i) the matters required by the Finance Minister's Orders; and
 - (ii) applicable accounting standards and other mandatory financial reporting requirements in Australia.

Australian National Audit Office



Mark Moloney
Acting Executive Director

Delegate of the Auditor-General

Canberra
13 October 2005

STATEMENT BY THE CHIEF EXECUTIVE AND CHIEF FINANCE OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2005 have been prepared based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.



Douglas Humphreys

Chief Executive
13 October 2005



Stephen Wise

Chief Finance Officer
13 October 2005

STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 30 June 2005

	Notes	2005 \$'000	2004 \$'000
Revenues from ordinary activities			
Revenues from government	4A	28,352	27,404
Goods and services	4B	891	802
Revenue from sale of assets		-	-
Revenues from ordinary activities		29,243	28,206
Expenses from ordinary activities			
Employees	5A	16,002	15,484
Suppliers	5B	12,324	11,629
Depreciation and amortisation	5C	1,187	1,012
Write-down and impairment of assets	5D	126	29
Value of assets sold	5D	-	-
Expenses from ordinary activities		29,639	28,154
Net surplus/(deficit) from ordinary activities		(396)	52
Net credit to asset revaluation reserve	11	272	-
Increase/(decrease) in accumulated results on initial application of fair value under accounting standard AASB 1041 <i>Revaluation of Non-Current Assets</i>	11	-	(352)
Total revenues, expenses and valuation adjustments attributable to members of the parent entity and recognised directly in equity		272	(352)
Total changes in equity other than those resulting from transactions with owners as owners	11	(124)	(300)

The above statements should be read in conjunction with the accompanying notes.

STATEMENT OF FINANCIAL POSITION

as at 30 June 2005

	Notes	2005 \$'000	2004 \$'000
ASSETS			
Financial assets			
Cash	6A	276	569
Receivables	6B	9,769	8,814
Total financial assets		10,045	9,383
Non-financial assets			
Land and buildings	7A,D	295	765
Infrastructure, plant and equipment	7B,D	1,432	1,700
Intangibles	7C,D	20	194
Other non-financial assets	7E	2,126	2,257
Total non-financial assets		3,873	4,916
TOTAL ASSETS		13,918	14,299
LIABILITIES			
Non-Interest bearing liabilities			
Other	8	110	217
Total non-interest bearing liabilities		110	217
Provisions			
Employees	9A	3,936	4,445
Accommodation leases—make good	9B	275	-
Total provisions		4,211	4,445
Payables			
Suppliers	10	671	587
Total payables		671	587
TOTAL LIABILITIES		4,992	5,249
NET ASSETS		8,926	9,050
EQUITY			
Contributed equity		2,133	2,133
Asset Revaluation Reserve		272	-
Retained surpluses		6,521	6,917
TOTAL EQUITY	11	8,926	9,050
Current assets		12,171	11,640
Non-current assets		1,747	2,659
Current liabilities		2,293	2,222
Non-current liabilities		2,699	3,027

The above statement should be read in conjunction with the accompanying notes.

STATEMENT OF CASH FLOWS

for the year ended 30 June 2005

	Notes	2005 \$'000	2004 \$'000
OPERATING ACTIVITIES			
Cash received			
Goods and services		982	690
Appropriations		27,116	26,176
Net GST received from ATO		1,139	984
Total cash received		29,237	27,850
Cash used			
Employees		(16,355)	(14,912)
Suppliers		(13,046)	(13,049)
Cash transferred to the Official Public Account		-	-
Total cash used		(29,401)	(27,961)
Net cash from/(used by) operating activities	12	(164)	(111)
INVESTING ACTIVITIES			
Cash used			
Purchase of property, plant and equipment		(113)	(280)
Purchase of intangibles		(16)	-
Total cash used		(129)	(280)
Net cash from/(used by) investing activities		(129)	(280)
Net increase/(decrease) in cash held		(293)	(391)
Cash at beginning of the reporting period		569	960
Cash at the end of the reporting period	12	276	569

The above statement should be read in conjunction with the accompanying notes.

SCHEDULE OF COMMITMENTS

as at 30 June 2005

	Notes	2005 \$'000	2004 \$'000
BY TYPE			
Other commitments			
Operating leases ^{1,2}		13,223	15,972
Total other commitments		13,223	15,972
Commitments receivable		(1,202)	(1,452)
Net commitments by type		12,021	14,520
BY MATURITY			
Operating lease commitments			
One year or less		4,671	5,683
From one to five years		7,610	10,289
Over five years		942	-
Total operating lease commitments by maturity		13,223	15,972
Commitments receivable		(1,202)	(1,452)
Net commitments by maturity		12,021	14,520

NB: Commitments are GST inclusive where relevant.

¹ These commitments comprise leases of hearing rooms and office accommodation for the Tribunal.

² Operating leases included are effectively non-cancellable and comprise:

<i>Nature of lease</i>	<i>General description of leasing arrangement</i>
Leases for office accommodation	<ul style="list-style-type: none"> lease payments are subject to fixed or market review increases as listed in the lease agreements; and all office accommodation leases are current and most have extension options for the Tribunal following a review of rentals to current market.
Agreements for the provision of motor vehicles to senior executives	<ul style="list-style-type: none"> no contingent rentals exist; and there are no renewal or purchase options available to the Tribunal.

The above schedule should be read in conjunction with the accompanying notes.

SCHEDULE OF CONTINGENCIES

as at 30 June 2005

	Notes	2005 \$'000	2004 \$'000
Contingent liabilities			
Restoration of Lease Costs			
Balance from previous period		510	-
New		75	510
Re-measurement		-	-
Liabilities crystallised	9B, 13	(160)	-
Obligations expired		-	-
Total contingent liabilities		425	510

The above schedule should be read in conjunction with the accompanying notes.

SCHEDULE OF ADMINISTERED ITEMS

as at 30 June 2005

	Notes	2005 \$'000	2004 \$'000
Revenues administered on behalf of government			
<i>for the year ended 30 June 2005</i>			
Non-taxation revenue			
Filing fees		1,094	729
Total revenues administered on behalf of government		1,094	729
Expenses administered on behalf of government			
<i>for the year ended 30 June 2005</i>			
Refund of filing fees		371	784
Total expenses administered on behalf of government		371	784

The above schedule should be read in conjunction with the accompanying notes.

There were no administered assets or liabilities as at 30 June 2005.

The above schedule should be read in conjunction with the accompanying notes.

SCHEDULE OF ADMINISTERED ITEMS (CONTINUED)

As at 30 June 2005

	Notes	2005 \$'000	2004 \$'000
Administered Cash Flows			
<i>for the year ended 30 June 2005</i>			
Operating activities			
Cash received			
Filing fees		1,094	729
Total cash received		1,094	729
Cash used			
Refund of filing fees		371	784
Total cash used		371	784
Net cash from/(used in) operating activities		723	(55)
Net increase/(decrease) in cash held		723	(55)
Cash at the beginning of the reporting period		-	-
Cash from Official Public Account for Appropriations		371	784
Cash to Official Public Account for Appropriations		(1,094)	(729)
Cash at the end of the reporting period		-	-

The above schedule should be read in conjunction with the accompanying notes.

There were no administered commitments as at 30 June 2005.

The above schedule should be read in conjunction with the accompanying notes.

There were no administered contingencies as at 30 June 2005.

Statement of Activities Administered on behalf of the Government

The major administered activities of the Tribunal are directed towards achieving the outcome described in Note 1 to the Financial Statements. The major financial activities are the collection of fees payable on lodging with the Tribunal of an application for a review of a decision, other than in income maintenance matters. On matters other than income maintenance, applicants may apply for a waiver of the fee under regulation 19(6) of the *Administrative Appeals Tribunal Regulations 1976*.

Fees are refunded in whole if the proceedings terminate in a manner favourable to the applicant except for Small Taxation Claims Tribunal applications where a smaller once-only fee is payable irrespective of the outcome of the decision.

The above schedule should be read in conjunction with the accompanying notes.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

NOTE	DESCRIPTION	PAGE
1.	Summary of Significant Accounting Policies	69
2.	Adoption of Australian Equivalents to International Financial Reporting Standards from 2005–06	75
3.	Events Occurring After Reporting Date	79
4.	Operating Revenues	79
5.	Operating Expenses	80
6.	Financial Assets	82
7.	Non-Financial Assets	83
8.	Other Non-Interest Bearing Liabilities	85
9.	Provisions	86
10.	Payables	86
11.	Equity	87
12.	Cash Flow Reconciliation	88
13.	Contingent Liabilities and Assets	88
14.	Executive Remuneration	89
15.	Remuneration of Auditors	89
16.	Average Staffing Levels	89
17.	Financial Instruments	90
18.	Administered Reconciliation Table	92
19.	Appropriations	93
20.	Specific Payment Disclosures	98
21.	Reporting of Outcomes	99

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 1—Summary of Significant Accounting Policies

1.1 Objectives of the Tribunal

The objective and sole outcome of the Tribunal is to provide independent review on merit of a wide range of administrative decisions of the Australian Government so as to ensure in each case the correct or preferable decision is made.

Tribunal activities contributing toward these outcomes are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, revenues and expenses controlled or incurred by the Tribunal in its own right. Administered activities involve the management or oversight by the Tribunal, on behalf of the Government, of items controlled or incurred by the Government.

1.2 Basis of Accounting

The financial statements are required by section 49 of the *Financial Management and Accountability Act 1997* (FMAA) and are a general purpose financial report.

The statements have been prepared in accordance with:

- Finance Minister's Orders (or FMOs, being the *Financial Management and Accountability Orders (Financial Statements for reporting periods ending on or after 30 June 2005)*);
- Australian Accounting Standards and Accounting Interpretations issued by the Australian Accounting Standards Board; and
- Consensus Views of the Urgent Issues Group.

The Statements of Financial Performance and Financial Position have been prepared on an accrual basis and are in accordance with historical cost convention, except for certain assets which,

as noted, are at valuation. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

Assets and liabilities are recognised in the Statement of Financial Position when and only when it is probable that future economic benefits will flow and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under agreements equally proportionately unperformed are not recognised unless required by an Accounting Standard. Liabilities and assets which are unrecognised are reported in the Schedule of Commitments and the Schedule of Contingencies (other than unquantifiable or remote contingencies, which are reported at Note 13).

Revenues and expenses are recognised in the Statement of Financial Performance when and only when the flow or consumption or loss of economic benefits has occurred and can be reliably measured.

The continued existence of the Tribunal in its present form, and with its present programs, is dependent on Government policy and on continuing appropriations by Parliament for the Tribunal's administration and programs.

Administered revenues, expenses, assets and liabilities and cash flows reported in the Schedule of Administered Items and related notes are accounted for on the same basis and using the same policies as for Tribunal items except where otherwise stated.

1.3 Revenue

Revenues from Government

Amounts appropriated for Departmental outputs appropriations for the year (adjusted for any

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

formal additions and reductions) are recognised as revenue, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

Resources received free of charge

Services received free of charge are recognised as revenue when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as revenue at their fair value when the asset qualifies for recognition, unless received from another government agency as a consequence of a restructuring of administrative arrangements (Refer to Note 1.4).

Other revenue

Revenue from the sale of goods is recognised upon the delivery of goods to customers.

Revenue from the rendering of a service is recognised by reference to the stage of completion of contracts or other agreements to provide services. The stage of completion is determined according to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services are recognised at the nominal amounts due less any provision for bad and doubtful debts. Collectability of debts is reviewed at balance date. Provisions are made when collectability of the debt is judged to be less rather than more likely.

Interest revenue is recognised on a time proportionate basis that takes into account the effective yield on the relevant asset.

Revenue from disposal of non-current assets is recognised when control of the asset has passed to the buyer.

1.4 Transactions by the Government as Owner

Equity injections

Amounts appropriated which are designated as 'equity injections' for a year (less any savings offered up in Portfolio Additional Estimates Statements) are recognised directly in Contributed Equity in that year.

Restructuring of Administrative Arrangements

Net assets received from or relinquished to another Commonwealth agency or authority under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

Other distributions to owners

The FMOs require that distributions to owners be debited to contributed equity unless in the nature of a dividend.

1.5 Employee Benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for wages and salaries (including non-monetary benefits), annual leave, sick leave are measured at their nominal amounts. Other employee benefits expected to be settled within 12 months of the reporting date are also measured at their nominal amounts.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

All other employee benefit liabilities are measured as the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Tribunal is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration, including the Tribunal's employer superannuation contribution rates to the extent that the leave is likely to be taken during the service rather than paid out on termination.

The liability for annual leave reflects the value of total annual leave entitlements of all employees at 30 June 2005 and is recognised at the nominal amount. The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability. The Tribunal's certified agreement raises pay rates on 1 July each year and the financial effect of this change has been included.

The non-current portion of the liability for long service leave is recognised and measured at the present value of the estimated future cash flows to be made in respect of all employees at 30 June 2005. In determining the present value of the liability, the Tribunal has taken into account attrition rates and pay increases through promotion and inflation.

Separation and redundancy

Provision is also made for separation and redundancy benefit payments in circumstances where the Tribunal has formally identified positions as excess to requirements and a reliable estimate of the amount of the payments can be determined.

Superannuation

Most members and staff of the Tribunal are members of the Commonwealth Superannuation Scheme and the Public Sector Superannuation Scheme. The liability for their superannuation benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course.

The Tribunal makes employer contributions to the Australian Government at rates determined by an actuary to be sufficient to meet the cost to the Commonwealth of the superannuation entitlements of the Tribunal's employees.

The liability for superannuation recognised at 30 June represents outstanding contributions as at the final day of the year.

1.6 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of leased non-current assets. In operating leases, the lessor retains substantially all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is capitalised at the present value of minimum lease payments at the beginning of the lease term and a liability recognised at the same time and for the same amount. The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

allocated between the principal component and the interest expense.

Operating lease payments are expensed on a basis which is representative of the pattern of benefits derived from the leased assets. The net present value of future net outlays in respect of surplus space under non-cancellable lease agreements is expensed in the period in which the space becomes surplus.

Lease incentives taking the form of 'free' leasehold improvements and rent holidays are recognised as liabilities. These liabilities are reduced by allocating lease payments between rental expense and reduction of the liability over the term of the related lease (refer Note 8).

1.7 Borrowing Costs

All borrowing costs are expensed as incurred except to the extent that they are directly attributable to qualifying assets, in which case they are capitalised. The amount capitalised in a reporting period does not exceed the amounts of costs incurred in that period.

1.8 Cash

Cash includes notes and coins held and any deposits held at call with a bank or financial institution. Cash is recognised at its nominal amount.

1.9 Other Financial Instruments

Trade creditors

Trade creditors and accruals are recognised at their nominal amounts, being the amounts at which the liabilities will be settled. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

Contingent liabilities and contingent assets

Contingent liabilities (assets) are not recognised in the Statement of Financial Position but are discussed in the related schedules and notes. They may arise from uncertainty as to the existence of a liability (asset), or represent an existing liability (asset) in respect of which settlement is not probable or the amount cannot be reliably measured. Remote contingencies are part of the disclosure. Where settlement becomes probable, a liability (asset) is recognised. A liability (asset) is recognised when its existence is confirmed by a future event, settlement becomes probable or reliable measurement becomes possible.

1.10 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. The Tribunal does not own any land and buildings.

Assets acquired at no cost or for nominal consideration are initially recognised as assets and revenues at their fair value at the date of acquisition unless acquired as a consequence of restructuring administrative arrangements. In the latter case, the assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor agency's accounts immediately prior to the restructuring.

1.11 Property, Plant and Equipment (PP & E)

Asset recognition threshold

Purchases of property, plant and equipment are recognised initially at cost in the Statement of Financial Position, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Revaluations

Basis

Land, buildings, plant and equipment are carried at valuation, being revalued annually (with sufficient frequency) such that the carrying amount of each asset class is not materially different, at reporting date, from its fair value. Valuations undertaken in each year are as at 30 June.

Fair values for each class of asset are determined as shown below.

Asset class	Fair value measured at:
Leasehold improvements	Depreciated replacement cost
Plant and equipment	Market selling price

Assets which are surplus to requirements are measured at their net realisable value. The Tribunal has no assets of this nature.

A full revaluation of all assets (excluding software) was undertaken at 30 June 2004. Full valuations are done at least every three years with annual desktop valuations done in between. All full and desktop valuations are completed by an independent, qualified valuer.

Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated remaining useful lives to the Tribunal using, in all cases, the straight-line method of depreciation. Leasehold improvements are depreciated on a straight-line basis over the lesser of the estimated remaining useful life of the improvements or the unexpired period of the lease.

Depreciation rates (useful lives) and methods are reviewed at each reporting date and necessary adjustments are recognised in the current,

or current and future reporting periods, as appropriate. Residual values are re-estimated for a change in prices only when assets are revalued.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2005	2004
Leasehold improvements (fitout)	Lease term	Lease term
Plant and equipment	3–20 years	3–20 years
Intangibles (software)	3–5 years	3–5 years

The aggregate amount of depreciation for each class of asset during the reporting period is disclosed in Note 5C.

1.12 Impairment of Non-Current Assets

Non-current assets carried at up to date value at the reporting date are not subject to impairment. All assets excluding intangibles have been revalued using the fair value method.

1.13 Intangibles

The Tribunal's intangibles comprise externally purchased software.

Intangible assets are held at cost and amortised on a straight-line basis over their anticipated useful lives.

All software assets were assessed for indications of impairment as at 30 June 2005. No provision was deemed necessary.

1.14 Inventories

Inventories held for resale are valued at the lower of cost and net realisable value.

Inventories not held for resale are valued at cost, unless they are no longer required, in which case they are valued at net realisable value.

The Tribunal has no inventories held for resale.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

1.15 Taxation

The Tribunal is exempt from all forms of taxation except fringe benefits tax and the goods and services tax (GST).

Revenues, expenses and assets are recognised net of GST:

- except where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- except for receivables and payables.

1.16 Foreign Currency

Transactions denominated in a foreign currency are converted at the exchange rate at the date of the transaction. Foreign currency receivables and payables are translated at the exchange rate current as at balance date. Associated currency gains and losses are not material.

1.17 Insurance

The Tribunal has insured against risks through the Government's insurable risk managed fund, called 'Comcover'. Workers compensation is insured through Comcare Australia.

1.18 Reporting of Administered Activities

The Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items and related Notes.

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for Tribunal items, including the application of Accounting Standards, Accounting Interpretations and UIG Abstracts.

1.18 Reporting of Administered Activities

Administered Cash Transfers to and from Official Public Account

Revenue collected by the Tribunal for use by the Government rather than the Tribunal is Administered Revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance and Administration. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by the Tribunal on behalf of the Government and reported as such in the Statement of Cash Flows in the Schedule of Administered Items and in the Administered Reconciliation Table in Note 18. Thus the Schedule of Administered Items largely reflects the Government's transactions, through the Tribunal, with parties outside the Government.

Revenue

All administered revenues are revenues relating to the core operating activities performed by the Tribunal on behalf of the Commonwealth.

Fees are charged on lodgement of applications for review. Some exemptions and waivers can apply to the payment of a fee. Applications deemed to be successful may result in a refund of the fee paid.

1.19 Comparative Figures

Comparative figures have been adjusted to conform with changes in presentation in these financial statements where required.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

1.20 Rounding

Amounts have been rounded to the nearest \$1,000 except in relation to the following items:

- act of grace payments and waivers;
- remuneration of executives;
- remuneration of auditors; and
- appropriations note disclosures.

Note 2—Adoption of Australian Equivalents to International Financial Reporting Standards from 2005–06

The Australian Accounting Standards Board has issued replacement Australian Accounting Standards to apply from 2005–06. The new standards are the Australian Equivalents to International Financial Reporting Standards (AEIFRS). The International Financial Reporting Standards are issued by the International Accounting Standards Board. The new standards cannot be adopted early. The standards being replaced are to be withdrawn with effect from 2005–06, but continue to apply in the meantime, including reporting periods ending on 30 June 2005.

The purpose of issuing AEIFRS is to enable Australian reporting entities reporting under the *Corporations Act 2001* to be able to more readily access overseas capital markets by preparing their financial reports according to accounting standards more widely used overseas.

For-profit entities complying with AEIFRS will be able to make an explicit and unreserved statement of compliance with International Financial Reporting Standards (IFRS) as well as a statement that the financial report has been prepared in accordance with Australian Accounting Standards.

AEIFRS contain certain additional provisions that will apply to not-for-profit entities, including Australian Government agencies. Some of these provisions are in conflict with IFRS, and therefore the Tribunal will only be able to assert that the financial report has been prepared in accordance with Australian Accounting Standards.

AAS 29 *Financial Reporting by Government Departments* will continue to apply under AEIFRS.

Accounting Standard AASB 1047 *Disclosing the Impacts of Adopting Australian Equivalents to International Financial Reporting Standards* requires that the financial statements for 2004–05 disclose:

- an explanation of how the transition to AEIFRS is being managed;
- narrative explanations of the key policy differences arising from the adoption of AEIFRS;
- any known or reliably estimable information about the impacts on the financial report had it been prepared using the Australian equivalents to IFRS; and
- if the impacts of the above are not known or reliably estimable, a statement to that effect.

Where an entity is not able to make a reliable estimate, or where quantitative information is not known, the entity should update the narrative disclosures of the key differences in accounting policies that are expected to arise from the adoption of AEIFRS.

The purpose of this Note is to make these disclosures.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Management of the transition to AEIFRS

The Tribunal has taken the following steps for the preparation towards the implementation of AEIFRS:

- The Tribunal's Audit Committee is tasked with oversight of the transition to and implementation of AEIFRS. The Chief Finance Officer is formally responsible for the project and reports regularly to the Audit Committee on progress to the Committee.
- All major accounting policy differences between current AASB standards and AEIFRS were identified by 31 December 2004.
- System changes necessary to be able to report under the AEIFRS, including those necessary to capture data under both sets of rules for 2004–05 have been completed.
- A transitional balance sheet as at 1 July 2004 under AEIFRS has been completed.
- An AEIFRS compliant balance sheet as at 30 June 2005 was also prepared during the preparation of the 2004–05 statutory financial reports.
- The 2004–05 Balance Sheet under AEIFRS will be reported to the Department of Finance and Administration in line with their reporting deadlines.

Major changes in accounting policy

Changes in accounting policies under AEIFRS are applied retrospectively i.e. as if the new policy had always applied except in relation to the exemptions available under AASB 1 First-time Adoption of Australian Equivalents to International Financial Reporting Standards. This rule means that an AEIFRS compliant balance sheet had to be prepared as at 1 July 2004. This will enable

the 2005–06 financial statements to report comparatives under AEIFRS.

Changes to major accounting policies are discussed in the following paragraphs.

Management's review of the quantitative impacts of AEIFRS represents the best estimates of the impacts of the changes as at reporting date. The actual effects of the impacts of AEIFRS may differ from these estimates due to:

- continuing review of the impacts of AEIFRS on Tribunal operations;
- potential amendments to the AEIFRS and AEIFRS Interpretations; and
- emerging interpretation as to the accepted practice in the application of AEIFRS and the AEIFRS Interpretations.

Property plant and equipment

It is expected that the 2005–06 Finance Minister's Orders will continue to require property plant and equipment assets to be valued at fair value in 2005–06.

Intangible Assets

The Tribunal has no internally developed software. All other software is valued at cost.

Impairment of Non-Current Assets

The Tribunal's policy on impairment of non-current assets is at Note 1.12.

Under AEIFRS these assets will be subject to assessment for impairment and, if there are indications of impairment, an assessment of the degree of impairment. (Impairment measurement must also be done, irrespective of any indications of impairment, for intangible assets not yet available for use). The impairment test is that the carrying amount of an asset must not exceed the

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

greater of (a) its fair value less costs to sell and (b) its value in use. 'Value in use' is the net present value of net cash inflows for for-profit assets of the Tribunal and depreciated replacement cost for other assets which would be replaced if the Tribunal were deprived of them.

The Tribunal has no assets assessed as impaired.

Decommissioning, Restoration and Make-good

When assessing accommodation leases for the preparation of the opening balance sheet, no obligations under the leases for make-good were determined. A contingent liability of \$510,000 in respect of lease restoration costs as valued by the Australian Valuation Office relating to our premises in Sydney (\$350,000) and Perth (\$160,000) was disclosed as at 30 June 2004. An additional contingent liability for the future make-good of our premises in Canberra (\$75,000) has also been disclosed as at 30 June 2005. The contingent liability for Perth has been upgraded to a provision as at 30 June 2005.

Employee Benefits

The provision for long service leave is measured at the present value of estimated future cash outflows using the approved discounting method for small agencies.

AEIFRS requires that annual leave that is not expected to be taken within 12 months of the balance date is to be discounted. After assessing the staff leave profile, the Tribunal expects that 50% of the annual leave balance will not be taken in the next 12 months which is in line with prior years. The non-current portion of annual leave has been measured at the present value of estimated future cash outflows using the approved discounting method for small agencies. No net adjustment is expected for the AEIFRS transition.

Administered Items

The Tribunal has no administered assets and liabilities therefore no adjustments due to the transition to AEIFRS will be necessary.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Reconciliation of Impacts—AGAAP to AEFIRS

	30 June 2005* \$'000	30 June 2004 \$'000
Reconciliation of Departmental Equity		
Total Departmental Equity under AGAAP	8,926	9,050
Adjustments to accumulated results	-	-
Adjustments to other reserves	-	-
Total Equity under AEFIRS	8,926	9,050
Reconciliation of Departmental Accumulated Results		
Total Departmental Accumulated Results under AGAAP	6,521	6,917
Adjustments:		
Work in progress	-	-
Assets—Carrying Value	-	-
Asset Revaluation Reserves	-	-
Depreciation	-	-
Total Accumulated Results under AEFIRS	6,521	6,917
Reconciliation of Departmental Reserves		
Total Departmental Reserves under AGAAP	272	-
Adjustment:		
Asset Revaluation Reserve	-	-
Total Departmental Reserves under AEFIRS	272	-
Reconciliation of Departmental Contributed Equity		
Total Contributed Equity under AAS—30 June 2004	2,133	2,133
Adjustments	-	-
Total Contributed Equity under AEFIRS	2,133	2,133
Reconciliation of Net Surplus/(deficit) from ordinary activities for year ending 30 June 2005		
Net surplus/(deficit) from ordinary activities under AGAAP	(396)	
Adjustments:		
Depreciation and amortisation	-	
Write-down of assets	-	
Net surplus/(deficit) from ordinary activities under AEFIRS	(396)	

* 30 June 2005 total represents the accumulated impacts of AEFIRS from the date of transition.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 3—Events Occurring After Balance Date

There were no significant events occurring after the balance date.

Note 4—Operating Revenues

	2005 \$'000	2004 \$'000
Note 4A—Revenues from Government		
Appropriations for outputs	28,162	27,227
Resources received free of charge	34	34
Liabilities assumed by other departments	156	143
Total revenues from government	28,352	27,404
Note 4B—Sales of Services		
Services	891	802
Total sales of services	891	802
Rendering of services to:		
Related entities	664	542
External entities	227	260
Total rendering of services	891	802

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 5—Operating Expenses

	2005 \$'000	2004 \$'000
Note 5A—Employee Expenses		
Wages and salary	12,514	12,232
Superannuation	2,293	2,149
Leave and other entitlements	652	598
Separation and redundancy	-	-
Other employee expenses	467	422
Total employee benefits expense	15,926	15,401
Workers compensation premiums	76	83
Total employee expenses	16,002	15,484
Note 5B—Supplier Expenses		
Goods from related entities	-	-
Goods from external entities	367	311
Services from related entities	810	619
Services from external entities	5,642	5,334
Operating lease rentals ¹	5,505	5,365
Total supplier expenses	12,324	11,629

¹These comprise minimum lease payments only.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

	2005 \$'000	2004 \$'000
Note 5C—Depreciation and Amortisation		
Depreciation of property, plant and equipment	890	713
Amortisation of lease incentives	107	107
Amortisation of intangibles—software	190	192
Total depreciation and amortisation	1,187	1,012
The aggregate amounts of depreciation or amortisation expensed during the reporting period for each class of depreciable asset are as follows:		
Leasehold improvements	771	503
Plant and equipment	226	317
Intangibles—software	190	192
Total depreciation and amortisation	1,187	1,012

No depreciation was allocated to the carrying amounts of other assets.

Note 5D—Write Down of Assets

	2005 \$'000	2004 \$'000
Non-financial assets		
Write off	-	29
Property, plant and equipment—revaluation decrement	126	-
Leasehold improvements—revaluation decrement	-	-
Intangibles—software	-	-
Total write down of assets	126	29

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 6—Financial Assets

	2005 \$'000	2004 \$'000
Note 6A—Cash		
Departmental (other than special accounts)	276	569
Total cash	276	569
Note 6B—Receivables		
Goods and services	43	132
GST receivable from the Australian Taxation Office	129	131
Appropriations receivable		
- undrawn	9,597	8,551
Total receivables (net)	9,769	8,814
All receivables are current assets.		
Appropriations receivable undrawn are appropriations controlled by the Tribunal but held in the Official Public Account under the Government's just-in-time drawdown arrangements.		
Receivables (gross) are aged as follows:		
Current	9,763	8,806
Overdue by:		
Less than 30 days	6	7
30 to 60 days	-	-
60 to 90 days	-	1
More than 90 days	-	-
	6	8
Total receivables (gross)	9,769	8,814

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 7—Non-Financial Assets

	2005 \$'000	2004 \$'000
Note 7A—Leasehold Improvements		
Leasehold improvements—at fair value	295	765
Accumulated amortisation	-	-
Total leasehold improvements	295	765
Note 7B—Infrastructure, Plant and Equipment		
Plant and equipment—at fair value	1,432	1,700
Accumulated depreciation	-	-
Total infrastructure plant and equipment	1,432	1,700

All revaluations are in accordance with the revaluation policy stated in Note 1.11. The 2004 revaluation decrement in the transition to fair value that would otherwise be accounted for as revenue or expense was taken directly to accumulated results in accordance with transitional provisions of AASB 1041 Revaluation of Non-current Assets. The current year's net revaluation increment has been transferred to asset revaluation reserve in accordance with the revaluation policy stated in Note 1.11. The valuation was provided by Simon O'Leary for and on behalf of the Australian Valuation Office. The revaluation increment applicable to Leasehold Improvements for the current year was \$272,124 and a decrement of \$126,430 applied to Infrastructure, Plant and Equipment (\$351,688 total expensed against retained surpluses in 2004).

Note 7C—Intangibles

	2005 \$'000	2004 \$'000
Computer software (at cost)	958	942
Accumulated depreciation	(938)	(748)
Total intangibles	20	194

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 7D—Analysis of Property, Plant, Equipment and Intangibles

■ **TABLE A—Reconciliation of the opening and closing balances of property, plant and equipment and intangibles**

Item	Buildings —Leasehold Improvements \$'000	Infrastructure, Plant and Equipment \$'000	Computer Software— Total Intangibles \$'000	TOTAL \$'000
As at 1 July 2004				
Gross book value	765	1,700	942	3,407
Accumulated depreciation/amortisation	-	-	(748)	(748)
Opening Net Book Value	765	1,700	194	2,659
Additions				
by purchase	29	84	16	129
from acquisition of operations	-	-	-	-
Net revaluation increment/ (decrement)	272	(126)	-	146
Depreciation/amortisation expense	(771)	(226)	(190)	1,187
Recoverable amount write-downs	-	-	-	-
Disposals				
From disposal of operations	-	-	-	-
Other disposals	-	-	-	-
As at 30 June 2005				
Gross book value	295	1,432	958	2,685
Accumulated depreciation/amortisation	-	-	(938)	(938)
Closing Net book value	295	1,432	20	1,747

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

■ TABLE B—Assets at valuation

Item	Buildings —Leasehold Improvements \$'000	Infrastructure, Plant and Equipment \$'000	Computer Software —Total Intangibles \$'000	TOTAL \$'000
As at 30 June 2005				
Gross value	295	1,432	-	1,727
Accumulated Depreciation/ Amortisation	-	-	-	-
Net book value				
As at 30 June 2004				
Gross value	765	1,700	-	2,465
Accumulated Depreciation/ Amortisation	-	-	-	-
Net book value	765	1,700	-	2,465

Note 7E—Other Non-Financial Assets

	2005 \$'000	2004 \$'000
Prepayments	2,126	2,257
Total Prepayments	2,126	2,257

All other non-financial assets are current assets.

Note 8—Other Non-Interest Bearing Liabilities

	2005 \$'000	2004 \$'000
Lease incentives	110	217
Total lease incentives	110	217
Current	110	106
Non-current	-	111

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 9—Provisions

Note 9A—Employee Provisions

	2005 \$'000	2004 \$'000
Salaries and wages	205	560
Leave	3,194	3,286
Superannuation	512	577
Aggregate employee entitlement liability	3,911	4,423
Worker's compensation	25	22
Aggregate employee benefit liability and related on-costs	3,936	4,445
Current	1,236	1,529
Non-current	2,700	2,916

Note 9B—Accommodation leases—make good Provision

Perth lease make good	275	-
Total make good provision	275	-
Current	275	-
Non-current	-	-

The Perth accommodation lease expires as at March 31, 2006. The building owner has indicated that a renewal or extension of the lease will not be offered and the Tribunal is in the process of negotiating a lease at other premises. A new valuation was sought from the independent valuer resulting in an increase in the anticipated make-good liability.

Note 10—Payables

	2005 \$'000	2004 \$'000
Trade creditors	671	587
Total payables	671	587

All supplier payables are current liabilities. Settlement is usually made 28 days from receipt of invoice.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 11—Equity

	Accumulated Results		Asset Revaluation Reserve		Contributed Equity		TOTAL EQUITY	
	2005 \$'000	2004 \$'000	2005 \$'000	2004 \$'000	2005 \$'000	2004 \$'000	2005 \$'000	2004 \$'000
Opening balance as at 1 July	6,917	7,217	-	-	2,133	2,133	9,050	9,350
Net surplus/(deficit)	(396)	52	-	-	-	-	(396)	52
Net revaluation increment/ (decrement)	-	-	272	-	-	-	272	-
Decrease in retained surpluses on application of transition provisions in accounting standard AASB 1041 <i>Revaluation of Non-Current Assets</i>	-	(352)	-	-	-	-	-	(352)
Transactions with owner:								
Distribution to owner:								
Returns on Capital	-	-	-	-	-	-	-	-
Dividends	-	-	-	-	-	-	-	-
Closing balance as at 30 June	6,521	6,917	272	-	2,133	2,133	8,926	9,050

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 12—Cash Flow Reconciliation

	2005 \$'000	2004 \$'000
Reconciliation of cash per Statement of Financial Position to Statement of Cash Flows		
Cash at year end per Statement of Cash Flows	276	569
Statement of Financial Position items comprising above cash: 'Financial Assets-Cash'	276	569
Reconciliation of operating surplus to net cash from operating activities:		
Net surplus/(deficit)	(396)	52
Depreciation/amortisation	1,187	1,012
Write off of assets	-	29
Net write-down of non-financial assets	126	-
(Increase)/Decrease in receivables	(955)	(1,163)
(Increase)/Decrease in prepayments	131	(451)
Increase/(Decrease) in employee provisions	(509)	429
Increase/(Decrease) in supplier payables	84	87
Increase/(Decrease) in other liabilities	168	(106)
Net cash from/(used by) operating activities	(164)	(111)

Note 13—Contingent Liabilities and Assets

Quantifiable Contingencies

The Schedule of Contingencies reports a contingent liability as at 30 June 2005 in respect of lease restoration costs as valued by the Australian Valuation Office relating to our premises in Sydney (\$350,000) and Canberra (\$75,000). The contingent liability recognised for our Perth premises (\$160,000) has been upgraded to a provision of \$275,000 as there is now a high degree of certainty that the make good requirement of the lease will occur.

Unquantifiable or Remote Contingencies

At 30 June 2005, the Tribunal has not identified any unquantifiable or remote contingencies.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 14—Executive Remuneration

The number of executives who received or were due to receive total remuneration of \$100,000 or more are shown in the following bands:

	2005	2004
\$120,000 to \$129,999	1	1
\$190,000 to \$199,999	1	-
The aggregate amount of total remuneration of executives shown above.	\$323,485	\$124,889
The aggregate amount of separation and redundancy/termination benefit payments during the year to executives shown above.	Nil	Nil

The 2004 Executive Remuneration has been restated to exclude the President of the Tribunal on the basis that a Judicial Officer is not considered an executive for reporting purposes.

Note 15—Remuneration of Auditors

	2005 \$	2004 \$
Financial statement audit services are provided free of charge to the Tribunal.		
The fair value of the audit services provided was:	34,000	34,000

No other services were provided by the Auditor-General.

Note 16—Average Staffing Levels

	2005	2004
The average full time equivalent staffing levels for the Tribunal during the year were:	161	160

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 17—Financial Instruments

Note 17A—Interest Rate Risk

Financial Instrument	Note	Floating Interest Rate		Non Interest-bearing		Total		Weighted Average Effective Interest Rate	
		2005 \$'000	2004 \$'000	2005 \$'000	2004 \$'000	2005 \$'000	2004 \$'000	2005 \$'000	2004 \$'000
Financial Assets									
Cash at bank	6A	-	-	276	569	276	569	n/a	n/a
Receivables for goods and services	6B	-	-	172	263	172	263	n/a	n/a
Appropriations receivable	6B	-	-	9,597	8,551	9,597	8,551	n/a	n/a
Total		-	-	10,045	9,383	10,045	9,383		
Total Assets						13,918	14,299		
Financial Liabilities									
Trade creditors	10	-	-	671	587	671	587	n/a	n/a
Make good	9B	-	-	275	-	275	-	n/a	n/a
Lease-incentives	8	-	-	110	217	110	217	n/a	n/a
Total		-	-	1,056	804	1,056	804		
Total Liabilities						4,992	5,249		

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 17B—Net Fair Values of Financial Assets and Liabilities

	Notes	2005		2004	
		Total Carrying Amount \$'000	Aggregate Net Fair Value \$'000	Total Carrying Amount \$'000	Aggregate Net Fair Value \$'000
Departmental Financial Assets					
Cash at bank	6A	276	276	569	569
Receivables for goods and services (net)	6B	172	172	263	263
Appropriations receivable	6B	9,597	9,597	8,551	8,551
Total Financial Assets		10,045	10,045	9,383	9,383
Financial Liabilities (Recognised)					
Lease incentives	8	110	110	217	217
Make good	9B	275	275	-	-
Trade creditors	10	671	671	587	587
Total Financial Liabilities (Recognised)		1,056	1,056	804	804

Note 17B—Net Fair Values of Financial Assets and Liabilities (continued)

Financial assets

The net fair value of cash and non interest-bearing monetary financial assets approximate their carrying amounts.

Financial liabilities

The net fair value of lease incentive liabilities are based on discounted cash flows using current interest rates for liabilities with similar risk profiles.

The net fair values for trade creditors are approximated by their carrying amounts.

Note 17C—Credit Risk Exposure

The Tribunal's maximum exposures to credit risk at reporting date in relation to each class of recognised financial assets is the carrying amount of those assets as indicated in the Statement of Financial Position.

The Tribunal has no significant exposures to any concentration of credit risk.

All figures for credit risk referred to do not take into account the value of any collateral or other security.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

NOTE 18—ADMINISTERED RECONCILIATION TABLE

	2005 \$'000	2004 \$'000
<i>Opening administered assets less administered liabilities as at 1 July</i>	-	-
Plus: Administered revenues	1,094	729
Less: Administered expenses	(371)	(784)
Administered transfers to/from Australian Government:		
Transfers (to)/from OPA	(723)	55
<i>Closing administered assets less administered liabilities as at 30 June</i>	-	-

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

NOTE 19—APPROPRIATIONS

Note 19A—Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund (CRF) for Ordinary Annual Services Appropriations

Particulars	Administered Expenses Outcome 1	Departmental Outputs	Total
Year ended 30 June 2005	\$	\$	\$
Balance carried from previous year	-	9,119,614	9,119,614
Reduction of appropriations (prior years)	-	-	-
Unspent receipts from 1999–2004 where no s31 agreement was deemed to be in place ¹	-	(4,517,349)	(4,517,349)
Adjusted Balance carried for previous period	-	4,602,265	4,602,265
Appropriation Act (No.1) 2004–2005 —basic appropriation	-	27,582,000	27,582,000
Appropriation Act (No.3) 2004–2005 —basic appropriation	-	568,000	568,000
Appropriation Act (No.5) 2004–2005 —basic appropriation	-	12,000	12,000
Departmental Adjustments by the Finance Minister (Appropriation Acts)	-	-	-
Comcover receipts (Appropriation Act s13)	-	7,602	7,602
Advance to the Finance Minister	-	-	-
Adjustment of appropriations on change of entity function (FMAA s32)	-	-	-
Refunds credited (FMAA s30)	-	-	-
Appropriation reduced by section 9 determinations (current year) ²	-	-	-
Subtotal 2004–05 Annual Appropriation	-	32,771,867	32,771,867
Appropriations to take account of recoverable GST (FMAA s30A)	-	1,138,991	1,138,991
Annotations to ‘net appropriations’ (FMAA s31)	-	490,367	490,367
Total appropriations available for payments	-	34,401,225	34,401,225
Cash payments made during the year (GST inclusive)	-	(29,537,170)	(29,537,170)
Appropriations credited to Special Accounts (excluding GST)	-	-	-
Balance of Authority to Draw Cash from the CRF for Ordinary Annual Services Appropriations	-	4,864,055	4,864,055

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 19A—Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund (CRF) for Ordinary Annual Services Appropriations (continued)

Particulars	Administered Expenses Outcome 1	Departmental Outputs	Total
Year ended 30 June 2005	\$	\$	\$
<i>Represented by:</i>			
Cash at bank and on hand	-	275,733	275,733
Receivable—departmental appropriations	-	9,597,000	9,597,000
Receivables—GST receivable from customers	-	8,235	8,235
Receivables—GST receivable from the ATO	-	129,127	129,127
Receivables—departmental appropriations—drawing rights withheld by the Finance Minister (FMAA s27(4))	-	-	-
Formal reductions of appropriations	-	-	-
Receivables—departmental appropriations (appropriation for additional outputs)	-	-	-
Payables—GST payable	-	(137,362)	(137,362)
Receipts from periods of no s31 agreement in years 1999–2005 not currently available	-	(5,008,678)	(5,008,678)
Total	-	4,864,055	4,864,055

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Particulars	Administered Expenses Outcome 1	Departmental Outputs	Total
Year ended 30 June 2004 (comparative period) ²	\$	\$	\$
Balance carried from previous year	-	8,459,408	8,459,408
Appropriation Act (No.1) 2003–2004	-	27,227,000	27,227,000
Appropriation Act (No.3) 2003–2004	-	-	-
Departmental adjustments determined by the Finance Minister (Appropriation Acts)	-	-	-
Advance to the Finance Minister	-	-	-
Refunds credited (FMAA s30)	-	-	-
Appropriations to take account of recoverable GST (FMAA s30A)	-	983,883	983,883
Annotations to 'net appropriations' (FMAA s31)	-	690,322	690,322
Adjustment of appropriations on change of entity function (FMAA s32)	-	-	-
Appropriation lapsed	-	-	-
Total appropriations available for payments	-	37,360,613	37,360,613
Payments made during the year (GST inclusive)	-	28,240,999	28,240,999
Appropriations credited to Special Accounts	-	-	-
Balance carried to the next period	-	9,119,614	9,119,614

¹ Under section 31 of the *Financial Management and Accountability Act 1997* (the FMA Act), the Minister for Finance and Administration may enter into a net appropriation agreement with an agency Minister. Appropriation Acts Nos. 1 and 3 (for the ordinary annual services of government) authorise the supplementation of an agency's annual net appropriation by amounts received in accordance with its Section 31 Agreement eg, receipts from charging for goods and services.

Although the Tribunal has operated and recorded receipts as though a valid section 31 was in place, receipts collected in the period 1 July 1999 to 1 December 2004 have not been captured by a valid section 31 agreement.

As a result:

- Receipts collected from 1 July 1999 up to 30 June 2004 under the departmental outputs appropriations regime that were not captured by a valid section 31 agreement amounted to \$4,517,349;
- Receipts totalling \$491,329 received in the period 1 July 2004 to 1 December 2004 were not captured by a section 31 agreement;

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 19A—Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund (CRF) for Ordinary Annual Services Appropriations (continued)

A year-by-year analysis of overstatement of the departmental output appropriations is given below.

	99-00	00-01	01-02	02-03	03-04	Sub- total	04-05 1/7/04 to 30/11/04	Total 1/7/99 to 30/6/05
Receipts affected	918,661	1,082,399	972,422	853,545	690,322	4,517,349	491,329	5,008,678
Spent	0	0	0	0	0	0	0	0
Unspent	918,661	1,082,399	972,422	853,545	690,322	4,517,349	491,329	5,008,678

Our current Section 31 Agreement was made on 2 December 2004 between our Registrar as Delegate of the Attorney-General and the Division Manager, Government and Defence Division of the Department of Finance and Administration as Delegate of the Minister for Finance and Administration. It is understood that options are being examined for making available for spending any unspent receipts not previously captured by an agreement, to enable them to be spent in accordance with section 83 of the Constitution

²The Tribunal has no appropriation reductions pursuant to section 9.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 19B—Special Accounts

The Tribunal has two Special Accounts neither of which has been used in 2004/05. The details of these accounts are listed below:

Title	Legal Authority	Classification	Opening Balance	Closing Balance
Other Trust Moneys	S20 FMAA	Departmental	-	-
Services for other Governments and Non-Agency Bodies	S20 FMAA	Departmental	-	-

The Tribunal's Other Trust Moneys Account was established under section 20 of the *Financial Management and Accountability Act 1997*. For the year ended 30 June 2005 the account had nil balances and there were no transactions debited or credited to it.

The purpose of the Other Trust Moneys Account is for expenditure of monies temporarily held on trust or otherwise for the benefit of a person other than the Commonwealth.

The Tribunal's Services for other Governments & Non-Agency Bodies Account was established under section 20 of the *Financial Management and Accountability Act 1997*. For the year ended 30 June 2005 the account had nil balances and there were no transactions debited or credited to it.

The purpose of the Services for other Governments & Non Agency Bodies Special Account is for expenditure in connection with services performed on behalf of other Governments and bodies that are not Agencies under the FMA Act.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

NOTE 20—SPECIFIC PAYMENT DISCLOSURES

	2005 \$	2004 \$
<i>Administered</i>		
No 'Act of Grace' payments, waivers of debt, ex gratia payments, Compensation for Detriment caused by Defective Administration Scheme payments or special circumstances payments pursuant to section 73 of the <i>Public Service Act 1999</i> were made during the reporting period.	Nil	Nil
<i>Departmental</i>		
No 'Act of Grace' payments, waivers of debt, ex gratia payments, Compensation for Detriment caused by Defective Administration Scheme payments or special circumstances payments pursuant to section 73 of the <i>Public Service Act 1999</i> were made during the reporting period.	Nil	Nil

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

NOTE 21—REPORTING OF OUTCOMES

The Tribunal has only one outcome which is described in note 1.1.

Note 21A—Net Cost of Outcome Delivery

	Total	
	2005 \$'000	2004 \$'000
Administered expenses	-	-
Departmental expenses	29,639	28,154
Total expenses	29,639	28,154
<i>Costs recovered from provision of goods and services to the non-government sector</i>		
Administered	-	-
Departmental	227	260
Total costs recovered	227	260
<i>Other external revenues</i>		
Administered		
Filing fees	723	(55)
<i>Total Administered</i>	<i>723</i>	<i>(55)</i>
Departmental		
Interest on cash deposits	-	-
Goods and Services Revenue from Related Entities	664	542
<i>Total Departmental</i>	<i>664</i>	<i>542</i>
Total other external revenues	1,387	487
Net cost (contribution) of outcome	28,025	27,407

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2005

Note 21B—Major Classes of Departmental Revenues and Expenses by Output Group

The Tribunal has only one output group.

	Total	
	2005 \$'000	2004 \$'000
Departmental expenses		
Employees	16,002	15,484
Suppliers	12,324	11,629
Depreciation and amortisation	1,187	1,012
Other expenses	126	29
Total departmental expenses	29,639	28,154
Funded by:		
Revenues from government	28,352	27,404
Sale of goods and services	891	802
Other non-taxation revenue	-	-
Total departmental revenues	29,243	28,206

Note 21C—Major Classes of Administered Revenues and Expenses by Output Group.

The Tribunal has only one output group which is described in note 1.1.

	Total Outcome 1	
	2005 \$'000	2004 \$'000
Administered revenues		
Fees & fines	723	-
Total Administered revenues	723	-
Administered expenses		
Refund of fees and fines	-	55
Total Administered expenses	-	55



Appendices

- 102 Appendix 1: Members of the Tribunal
- 124 Appendix 2: Staff of the Tribunal
- 126 Appendix 3: Statistics for the year ending 30 June 2005
- 139 Appendix 4: Tribunal application fees
- 140 Appendix 5: Changes to jurisdiction
- 143 Appendix 6: Decisions of interest
- 155 Appendix 7: Freedom of information
- 157 Appendix 8: Commonwealth Disability Strategy—the Tribunal's performance in employer role
- 159 Appendix 9: Consultancies

Appendix I: Members of the Tribunal

Tribunal members as at 30 June 2005

President The Honourable Justice
GK Downes, AM

New South Wales

Presidential members

Federal Court The Honourable Justice
DG Hill

Family Court The Honourable Justice
ARO Rowlands, AO, RFD

Deputy President RNJ Purvis, AM, QC

Deputy President J Block

Deputy President G D de Q Walker

Non-presidential members

Senior Members

Senior Member MD Allen (G,V,T,S)

Senior Member G Ettinger (G,V,T,S)

Senior Member NP Bell (G,V,S)

Senior Member R Hunt (G,V,T,S)

Senior Member JC Kelly (G,V)

Senior Member IA Shearer, AM, RFD (G,V,S)

Members

Dr IS Alexander (G,V)

Dr JD Campbell (G,V)

Mr MA Griffin (G,V)

Rear Admiral AR Horton, AO, RAN (Rtd) (G,V)

Ms N Isenberg (G,S)

Professor GAR Johnston (G,V)

Dr PD Lynch (G,V)

Professor TM Sourdin (G,V)

Dr MEC Thorpe (G,V)

Brigadier IR Way (Rtd) (G,V,T)

Victoria

Presidential members

Federal Court The Honourable Justice
PRA Gray

Deputy President SA Forgie

Deputy President GL McDonald

Deputy President HW Olney, AM, QC

Non-presidential members

Senior Members

Senior Member JR Handley (G,V,T)

Senior Member BH Pascoe (G,V,T)

Senior Member GD Friedman (G,V,S)

Members

Brigadier C Ermert (G,V)

Mr E Fice (G,V,T)

Dr PD Fricker (G,V)

Dr GL Hughes (G,V,T)

Associate Professor JH Maynard (G,V)

Ms RL Perton (G,V,S)

Miss EA Shanahan (G,V)

Queensland

Presidential members

Federal Court The Honourable Justice
 JEJ Spender

Family Court The Honourable Justice
 JPO Barry

Deputy President DW Muller

Non-presidential members

Senior Members

Senior Member BJ McCabe (G,V,T)

Senior Member PM McDermott, RFD (G,V,T)

Members

Ms MJ Carstairs (G,V,T)

Dr EK Christie (G,V,T)

Associate Professor SC Fisher (G,V,T)

Dr KP Kennedy, OBE (G,V)

Mr RG Kenny (G,V,T)

Dr K St C Levy, RFD (G,V,T)

Dr GJ Maynard, Brigadier (Rtd) (G,V)

Associate Professor JB Morley, RFD (G,V)

South Australia

Presidential members

Deputy President DG Jarvis

Non-presidential members

Senior Members

Senior Member L Hastwell (G,V)

Senior Member RW Dunne (G,V,T)

Members

Dr ET Eriksen (G,V)

Mr JG Short (G,V,T)

Western Australia

Presidential members

Federal Court The Honourable Justice
 RS French

 The Honourable Justice
 RD Nicholson

Deputy President SD Hotop

Non-presidential members

Senior Members

Senior Member S Penglis (G,V,T)

Members

Mr MJ Allen (G,V,T)

Associate Professor GA Barton (G,V,T)

Brigadier RDF Lloyd, OBE, MC, RL (G,V)

Ms L Savage Davis (G,V)

Dr PA Staer (G,V)

Ms LR Tovey (G,V)

Brigadier AG Warner, AM, LVO (G,V,S)

Dr HAD Weerasooriya (G,V)

Tasmania

Presidential members

Deputy President RJ Groom

Deputy President CR Wright, QC

Non-presidential members

Senior Member

Senior Member MA Imlach (G,V,T)

Members

Ms AF Cunningham (G,V,T)

Associate Professor BW Davis, AM (G,V)

Australian Capital Territory

Non-presidential members

Senior Members

Senior Member JW Constance (G,V,T,S)

Members

Air Marshal IB Gration, AO, AFC, RAAF (Rtd) (G,V)

Dr MD Miller, AO (G,V)

Mr S Webb (G,V,T)

Additional Information

1. Presidential members and Senior Members are listed according to their date of appointment, whilst Members are listed alphabetically.
2. Presidential members may exercise powers of the Tribunal in all of the Tribunal's divisions, while Senior Members and Members may exercise powers of the Tribunal only in the divisions to which they have been assigned. The divisions to which Senior Members and Members have been assigned are indicated as follows:

G	General Administrative Division
V	Veterans' Appeals Division
T	Taxation Appeals Division
S	Security Appeals Division.
3. Deputy President G McDonald is currently on leave of absence from the Tribunal.
4. New appointments during the year to 30 June 2005 were:

Deputy President

The Hon RJ Groom

The Hon HW Olney, AM, QC

Professor G D de Q Walker

Senior Member

Mr JW Constance

Mr RW Dunne

Ms L Hastwell

Ms R Hunt

Ms JC Kelly

Associate Professor PM McDermott, RFD

Mr S Penglis

Professor Emeritus IA Shearer, AM, RFD

Member

Dr IS Alexander

Associate Professor SC Fisher

Dr GL Hughes

Ms RL Perton

Dr K St C Levy

Dr GJ Maynard, Brigadier (Rtd)

Mr JG Short

Ms LR Tovey

Brigadier AG Warner, AM, LVO

5. Change in status of appointment:
 - Deputy President Hotop (from part-time Deputy President to full-time Deputy President)
 - Ms NP Bell (from Member to Senior Member)
 - Mr GD Friedman (from Member to Senior Member)
6. The following ceased to be members during the reporting year:
 - The Honourable Justice Beaumont, AO (retired from the Federal Court of Australia)
 - Deputy President RP Handley
 - Senior Member KL Beddoe
 - Senior Member JR Dwyer
 - Senior Member PJ Lindsay
 - Senior Member WJF Purcell
 - Mr GA Mowbray (Member)
 - Major-General JN Stein, AO (Rtd) (Member)

Member profiles

The Honourable Justice Garry Downes, AM, BA, LLB, FCIArb

President

Justice Downes was appointed a Judge of the Federal Court and President of the Administrative Appeals Tribunal in 2002. He is the Chair of the Council of Australasian Tribunals and a member of the Council of the Australian Institute of Judicial Administration. He was called to the Australian Bar in 1970 and appointed Queen's Counsel in 1983. He was a member of the English Bar. His practice was concentrated on commercial law, administrative law and international arbitration. He was Chairman of the Federal Litigation Section

of the Law Council of Australia and Chairman of its Administrative Law Committee. He has served international and national organisations in various capacities, including as President of the Union Internationale des Avocats, Patron and Founder of the Anglo–Australasian Lawyers’ Society, Chairman of the Chartered Institute of Arbitrators Australia, Member of the International Court of Arbitration of the International Chamber of Commerce, Member of the Council of the NSW Bar Association and Chairman of the NSW Council of Law Reporting.

This year Justice Downes presented the following papers, speeches and addresses:

‘The Council of Australasian Tribunals : an overview of its objects and activities’, Speech to a meeting convened to establish a South Australian Chapter of the Council of Australasian Tribunals in August 2004

‘Reforms to the Administrative Appeals Tribunal’, Speech to the Law Society of New South Wales Government Solicitors’ CLE Convention in September 2004

‘Future directions for the Administrative Appeals Tribunal’, Speech to the Australian Institute of Administrative Law’s Queensland Chapter Annual Dinner in September 2004

‘Comcare: ceasing liability, settlements and hearings’, Seminar at the Law Society of New South Wales in September 2004

‘The Scots College 2004 Speech Day’, Address at The Scots College 2004 Speech Day and Presentation of Senior School Prizes in December 2004

‘Government agencies as respondents in the Administrative Appeals Tribunal’, Paper delivered to the Australian Government Solicitor Government Law Group, Sydney, in February 2005

‘Reforms to the Administrative Appeals Tribunal’, Address to the Victorian Chapter of the Council of Australasian Tribunals in May 2005

‘Government agencies as respondents in the Administrative Appeals Tribunal’, Paper delivered to the Australian Government Solicitor Government Law Group, Canberra, in June 2005.

Dr Ion Alexander, MBBS (Hons), LLB, MRACMA, FRACP, FJFICM

Part-time Member, NSW

Ion Alexander was appointed to the AAT as a part-time Member in August 2004. Ion is a Senior Staff Specialist and Clinical Director at Sydney Children’s Hospital at Randwick. He has been a member of the Health Care Complaints Peer Review Panel since 1997 and the Professional Services Review Panel since 2001.

MD Allen, RFD, Barrister-at-Law

Full-time Senior Member, NSW

After admission in 1968, Mr Allen served with the Australian Army Legal Corps in South Vietnam and Papua New Guinea. He was a solicitor, common law, with Brisbane City Council from 1970 to 1973 when he was appointed Crown Counsel in the office of the Tasmanian Solicitor-General. He was appointed Senior Crown Counsel in 1978. In 1980 he returned to private practice at the Queensland Bar with a commission to prosecute in both the Supreme and District Courts. He was appointed Senior Member of the Veterans’ Review Board in 1985 and Senior Member with tenure of the AAT in 1988.

Mr Allen is a member of the AAT’s Library Committee.

Murray Allen, LLB, MBA

Part-time Member, WA

A part-time Member of the AAT since 2002, Mr Allen was previously the Ombudsman for Western Australia (1996–2001) and the Regional Commissioner of the Australian Securities and Investments Commission in Western Australia (1991–96). Between 1984 and 1990 he worked as an investment banker in Melbourne and Auckland.

He has also worked for the National Companies and Securities Commission and the Australian Treasury, and as a barrister and solicitor in private practice. Mr Allen is also a consultant to the public and private sectors.

Associate Professor Glenton Barton, BA, LLB, LLM (SA), LLM (Harvard)

Part-time Member, WA

Glen Barton is an Associate Professor in the Law School of the University of Western Australia, where he lectures in the areas of revenue and corporations law at the undergraduate and postgraduate level. He is a barrister and solicitor of the Supreme Court of Western Australia and a member of the Taxation Committee and a past member of the Education Committee of the Law Society of Western Australia. He is a former Director and Chairman of the National Education Committee of the Taxation Institute of Australia and was made an Honorary Life Member of the Institute in 2005.

This year Associate Professor Barton presented a paper, ‘Having a RAP (reasonably arguable position)—Does it help?’, at the 20th National Convention of the Taxation Institute of Australia in Perth in March 2005.

Keith Beddoe, LLB, ACIS, CPA

Part-time Senior Member, Qld

Keith Beddoe has been a Senior Member of the AAT since 1986. He was also a part-time Senior Member of the ACT AAT from 1991 until 1995. From 1985 to 1986 he was Chairman of the Taxation Board of Review No. 3. Previously he held positions as First Assistant Commissioner of Taxation and Senior Assistant Commissioner of Taxation from 1980 to 1985.

Narelle Bell, BA, LLB

Full-time Senior Member, NSW

Narelle Bell was appointed to the AAT as a full-time Member in 2001. She is a former legal member of the Social Security Appeals Tribunal (1994–2001), judicial member/mediator with the Administrative Decisions Tribunal of NSW (1994–2001), consultant reviewer with the NSW Office of the Legal Services Commissioner (1995–2001), member of the Professional Standards Council of NSW and WA and legal policy consultant. She also worked as a corporate counsel and legal adviser (part-time) for the State Rail Authority during 1994–95. From 1988 until 1994, she worked as a policy officer and assistant director in the Legislation and Policy Division of the NSW Attorney-General’s Department and, prior to this, as a solicitor at the Anti-Discrimination Board (1986–88) and the Redfern Legal Centre (1983–86) and for a private law firm (1982–83).

Ms Bell conducted moots with advocates of the Department of Veterans’ Affairs as part of their training program at the University of Canberra in September 2004.

Ms Bell is a member of the AAT’s Professional Development Committee.

Julian Block, H.DIP. Law, H.DIP. Tax, LLM, MTax

Part-time Deputy President, NSW

Julian Block was originally admitted as a solicitor in South Africa and thereafter in the United Kingdom. He emigrated to Australia in March 1978 and joined Freehills in 1978, becoming a partner in 1980. He was appointed Senior Member at the AAT in 1995, Deputy President full-time in 2000 and Deputy President part-time in 2001. He is a part-time Judicial Member of the NSW Administrative Decisions Tribunal and an acting judge of the NSW District Court. He is a part-time consultant to Morgan Lewis, solicitors, and to Investec Bank. He has presented various papers and lectures. He is a member of the Executive of

the Sydney International Piano Competition and Wagner Society, and a patron of Opera Australia.

Dr John Campbell, MBBS, DTM&H, MHA, LLB, LLM, FRACMA, FAICD, FAIM

Part-time Member, NSW

John Campbell has been a part-time Member of the AAT since 1991. John Campbell served in the Army between 1962 and 1980, and as a senior executive in NSW Health between 1980 and 1998. In subsequent years John has been involved with NRMA (until 2001) and Mercy Family Life Centre (until 2003) as a director and as Chairman of M.A. International Ltd, a health management consultancy company.

Dr Campbell is a member of the AAT's Professional Development Committee.

Margaret Carstairs, BA (Hons), LLB

Full-time Member, Qld

Margaret Carstairs has been a Member of the AAT since 2001. Prior to her appointment to the Tribunal, she headed the Social Security Appeals Tribunal (SSAT) in 2000–01. She was Senior Member of the SSAT in Brisbane for four years from 1996. She has extensive experience in administrative law within Australian Government departments. She was Coordinator of the Welfare Rights Centre in Brisbane from 1994–95. She has lectured in public administration at the University of New England and has published in this area.

Associate Professor Edward Christie, BAgSc, MAgSc, PhD, Barrister-at-Law

Part-time Member, Qld

Edward Christie is a barrister and mediator and has been a part-time Member of the AAT since 1991. In 1990–91 he was the Principal Adviser to the Commission Chairman (Tony Fitzgerald QC) in the State of Queensland Commission of Inquiry into Fraser Island and the Great Sandy Region and, in 1993–94, he was a Commissioner

in the Commonwealth Commission of Inquiry into Shoalwater Bay. He held a Fulbright Award (for practising lawyers) to the United States in 1994 in the subject area of the precautionary principle, risk assessment and legal decision making. He was associated with the Commonwealth Scientific and Industrial Research Organisation over the period 1994–2000 in various advisory committees providing strategic research planning advice, including a period as Chair of the Meat, Dairy and Aquaculture Sector Advisory Committee. Since 2000, he has been the Chair of the Ministerial Advisory Committee (Vegetation Management), a Queensland Government committee advising on regulatory and policy issues associated with tree clearing and soil salinity. He was a major author of a chapter on environmental law in *Halsbury's Laws of Australia*. He is currently contracted on a part-time basis, as an Associate Professor, to teach environmental law to final-year law students, as well as alternative dispute resolution and environmental conflicts to Master's level students. He was awarded a Centenary Medal in 2003 for long and distinguished services to the law and education.

Dr Christie is a member of the AAT's Professional Development Committee.

James William Constance, BA, LLB (Hons)

Full-time Senior Member, ACT

James Constance was appointed to the AAT in August 2004. He has practised as a barrister and solicitor in the ACT and NSW continuously since 1970 as an employed solicitor, sole practitioner and, for more than 22 years, as a partner in legal firms. Mr Constance graduated from the Australian National University with a Bachelor of Arts degree, a Bachelor of Laws with First Class Honours (Law) and the University Prize in Law in 1968. His legal experience encompasses administrative law, taxation law, employment law, family law, personal injury compensation, discrimination, wills and estates, mortgages and property, veterans' affairs,

defamation, contracts, statutory interpretation, criminal law and coronial inquests.

Mr Constance is a member of the AAT's Practice and Procedure Committee and Library Committee.

Ann Cunningham, LLB (Hons)

Part-time Member, Tas

Ann Cunningham was appointed a part-time Member of the AAT in 1995. She is a Presiding Member of the Resource Management Planning Appeals Tribunal and Deputy President of the Mental Health Tribunal. She is Chairman of the Board of the Public Trustee and a complaints commissioner with the University of Tasmania. Ann is an accredited mediator and arbitrator and has worked as a mediator for the Supreme Court of Tasmania and the Magistrates Court. Between 1984 and 1999, she was a Deputy Registrar of the Family Court of Australia.

Associate Professor Bruce Walker Davis, AM, DipStrEng, DipPubAdmin, BEc (Hons), PhD

Part-time Member, Tas

Bruce Davis has been a part-time Member of the AAT since 1992. He has served in a range of roles at the University of Tasmania, including as Dean of the Faculty of Arts, as a member of the University Council and member of the University Finance Committee, and as Executive Member, Board of Environmental Studies. He was Chair of the National Parks and Wildlife Advisory Council, a Commissioner of the Resource, Planning and Development Commission and a Member of the Board of Environmental Management and Pollution Control in Tasmania. He has recently retired from the post of Deputy Director of the Institute of Antarctic and Southern Ocean Studies. He is a former civil engineer and Head of the Department of Political Science, University of Tasmania.

Associate Professor Davis is a member of the AAT's Constitution Committee.

Rodney (Rod) Dunne, LLB, FCPA

Part-time Senior Member, SA

Rod Dunne was admitted as a barrister and solicitor of the Supreme Court of South Australia in October 1982 and is a qualified accountant. He was appointed to the AAT in June 2005. He continues to practise part-time as a partner in the Adelaide commercial law firm, Donaldson Walsh. Rod is a member of the Specialist Taxation Committee of the Business Law Section of the Law Council of Australia, a member of the Regional (Adelaide) Tax Practitioner Forum and the SA Tax Technical Liaison Group with the Australian Taxation Office representing the Law Society of South Australia and a member of the State Taxes Accountants and Solicitors Consulting Group with RevenueSA. He is a former lecturer and tutor in income tax law as part of the commerce degree and a past lecturer and examiner in taxation administration as part of the Master of Legal Studies degree with the law school at the University of Adelaide.

Joan Dwyer, BA, LLB

Full-time Senior Member, Vic

Joan Dwyer has been a Senior Member of the AAT since 1984. Prior to appointment to the Tribunal, she practised as a solicitor in Melbourne and in London, and as a barrister at the Victorian Bar. She had also been a member of the Social Security Appeals Tribunal, and from 1981 to 1984 was Chairman of the Equal Opportunity Board of Victoria. She has published a number of papers advocating the Tribunal's use of inquisitorial or investigative procedures. She has spoken and published papers on the issue of access to justice for people with disabilities. She has completed Bond University and Harvard Law School mediation workshops in Australia. She was accredited as a mediator in 1993.

Mrs Dwyer presented a paper, 'Making the best use of expert medical evidence', at the Tenth

Greek/Australian International Legal and Medical Conference in Mykonos in June 2005.

Mrs Dwyer was a member of the AAT's Constitution Committee.

Dr Erik Eriksen, MBBS, FRCS, FRACS

Part-time Member, SA

Dr Erik Eriksen was appointed as a part-time Member of the AAT in October 2002. From 1977 until 1998, he was a medical consultant and consultant surgeon at the Ashford Hospital. In 1976, he was a visiting specialist in Accident and Emergency at the Royal Adelaide Hospital. He spent 1973 in Tanzania as a consultant and orthopaedic surgeon at Williamson Diamond Mine. He had prior experience in the speciality of neurosurgery in the United Kingdom and the United States of America between 1967 and 1971. He is currently involved in rehabilitative orthopaedic medicine as a rehabilitation consultant.

Conrad Ermert, MSc, FIEAust, CPEng

Part-time Member, Vic

Conrad Ermert has been a part-time Member of the AAT since 1991. He is a practising engineering consultant. He had 31 years service in the Australian Army, his last appointments being Director General Electrical and Mechanical Engineering and Director General Logistics in the rank of Brigadier. From 1990 to 1995, he was Director of Facilities and Supply at the Alfred Group of Hospitals before establishing his consultancy practice. He is the Chairman and a Director of AMOG Holdings, Chairman of the AIF Malayan Nursing Scholarship and a past Chairman of the Victoria Division, Institution of Engineers, Australia.

Mr Ermert chaired a seminar, 'Current issues in the Administrative Appeals Tribunal', which was conducted by Legalwise Seminars in November 2004.

Geri Ettinger, BA (Economics), LLB

Part-time Senior Member, NSW

Geri Ettinger was first appointed to the AAT in June 1991. She has worked in the private and public sectors. She was chief executive of the Australian Consumers' Association, publisher of CHOICE magazine for more than 10 years and, for many years until mid-2002, a Board Member of St George Bank. She holds appointments as a part-time Member of the Consumer, Trader and Tenancy Tribunal and a Member of the Medical Tribunal, chairs Professional Standards Committees of the NSW Medical Board and is an Arbitrator of the NSW Workers Compensation Commission. She first trained as a mediator 16 years ago and has been mediating and conciliating in commercial matters, equity, personal injury, workplace disputes, medical negligence and other areas since then. She is a member of various committees and advisory bodies.

Ms Ettinger is a member of the AAT's Professional Development Committee.

Egon Fice, BB, LLB (Hons), LLM

Part-time Member, Vic

Egon Fice was appointed to the AAT in 2003. He is a partner in Charles Fice, Solicitors. From 1995 to 1998, he was a partner, specialising in litigation, in Phillips Fox. From 1990 to 1995, he worked in insolvency and commercial litigation law. From 1967 to 1980, he was a pilot in the Royal Australian Air Force. Subsequently he was a pilot for eight years with Associated Airlines (BHP and CRA Corporate Airline).

Associate Professor Simon Fisher, LLB (Hons), LLM

Part-time Member, Qld

Simon Fisher has been a part-time Member of the AAT since 2004. He is a practising member of the Queensland Bar. Simon was a part-time member

of the Social Security Appeals Tribunal (SSAT) from 2000–04. He was formerly an Associate Professor of the TC Beirne School of Law at the University of Queensland and he is currently attached there as a sessional lecturer. Simon practised as a solicitor and legal consultant at Praeger Batt Solicitors from 1999–2002. He was previously a lecturer (1992–95) and senior lecturer (1995–99) in the Faculty of Law at the Queensland University of Technology and was a visiting fellow at ANU in 1995. His previous experience includes practising as a solicitor for Ebsworth & Ebsworth, Solicitors (1989–91), senior associate (1991), solicitor (1988–91) and consultant (1996–97). He has also been a consultant for Bowdens Lawyers, Brisbane from 1992–98. Between 1981 and 1987, he worked for the Reserve Bank of Australia in various positions of a legal, policy and operational nature and from 1980 until 1981 he worked in the import/export area of the Banque Nationale de Paris. He is an elected fellow of the Taxation Institute of Australia, a member of the Corporations Law Committee of the Law Council of Australia and a Board Member of the Trinity Institute of Leadership Inc. He has published widely in the area of contracts, personal property, commercial, company and associations law and the law of obligations and has co-authored a number of books including one entitled *Churches, Clergy and the Law*. Simon is enrolled in the degree of Doctor of Juridical Science (SJD) at the Queensland University of Technology and expects to complete the requirements for this degree in early 2006.

Stephanie Forgie, LLB (Hons)

Full-time Deputy President, Vic

Stephanie Forgie has been a Deputy President with the AAT since 1988. Prior to her appointment, she had been in private practice, lectured and tutored in contract law, and held various statutory positions as Deputy Master of the Supreme Court of the Northern Territory. She had also worked in various positions in the Attorney-General's Department in Canberra on matters such as the

policy development and implementation of various legislation including the *Freedom of Information Act 1982* and the *Insurance Contracts Act 1984*, and policy issues relating to international trade law and private international law. In those positions, she represented Australia at international meetings. Subsequently, she became the Departmental Senior Adviser to the Attorney-General before being appointed as Registrar of the Tribunal. During her time with the Tribunal, she has also held part-time positions as Deputy Chairperson of the Land Tribunal (Queensland) and Member, Land Court (Queensland). Over the years, she has held various positions with professional associations and arts councils and with a charitable organisation.

Miss Forgie is Deputy Chair of the AAT's Practice and Procedure Committee and a member of the Constitution Committee, the Library Committee and the Information Technology Steering Committee.

Dr Patricia Fricker, MBBS

Part-time Member, Vic

Patricia Fricker has worked as a general practitioner since 1976 and has been a Member of the AAT since 1995. She has been a part-time Member of the Social Security Appeals Tribunal since 1988. She is a member of the Medical Advisory Committee of the Manningham Medical Centre.

Graham Friedman, BEc, LLB, GradDipAdmin

Full-time Senior Member, Vic

Graham Friedman has been a member of the AAT since July 2001 and was appointed as Senior Member in June 2005. He was a Senior Member of the Migration Review Tribunal from 1999 to 2001 and Chairman/Convenor of the Disciplinary Appeal Committee of the Public Service and Merit Protection Commission from 1993 to 2000. Prior to this, he practised at the Victorian Bar (1988 to 1993). He represented the Department of Human Services (Victoria) as Prosecutor, Child Protection, from 1993 to 1999. He was Chairman, Grievance Review Tribunal, Victorian Department

of Conservation and Natural Resources from 1994 to 1996. He has previous experience in Administrative Law with the Australian Government Attorney-General's Department.

Air Marshal IB Gration, AO, AFC, BCom, GAICD, RAAF (Ret)

Part-time Member, ACT

Air Marshal Gration served as a pilot in the RAAF for almost 42 years, rising to be Chief of Air Staff 1992–94. Apart from flying, his specialty appointments were in command, operations, representation and personnel. He joined the AAT in 1996 and has developed expertise mainly in compensation and, to a lesser degree, aviation. His strengths are familiarity with human relations and the Australian Public Service, together with an enthusiasm for the discipline of legal argument. He currently acts mostly in the conciliation role.

Michael Griffin, LLB, LLM

Part-time Member, NSW

Michael Griffin has been a member of the AAT since July 2001. He is a solicitor in private practice. He was previously a Senior Member of the Migration Review Tribunal and a member of the Refugee Review Tribunal. Michael is a Judge Advocate/Defence Force Magistrate and a Colonel in the Army Reserve.

During the year, Mr Griffin was appointed as the Subject Matter Expert in Administrative Law for the Australian Defence Force, served as a member of the Law Society of NSW Administrative Law Committee, was engaged by the President of the Senate as the expert adviser to the Senate Committee Inquiry into the Military Justice System and was Counsel Assisting a Board of Inquiry for the Royal Australian Navy. He was also appointed as Foreign Attorney Consultant for Mr David Hicks before the United States Military Commission in Guantanamo Bay, Cuba.

Mr Griffin presented a paper, 'The role of counsel representing next of kin in boards of inquiry', at a Department of Defence seminar in June 2005.

The Honourable Ray Groom, LLB

Part-time Deputy President, Tas

Mr Groom has been a part-time Deputy President of the AAT since July 2004. He was admitted to practise in the Supreme Court of Victoria in 1968 and Tasmania in 1970. He was a partner in the Tasmanian firm of Crisp Hudson & Mann and committee member of the Bar Association of Tasmania. He is a former Premier of Tasmania and Attorney-General. He was chairman of the Australian Standing Committee of Attorneys-General as well as chairman of the Australian Housing Industry Council and the Australian Construction Industry Council. Mr Groom is chairman of the Salvation Army Red Shield Appeal and Development Council as well as a director of several other charities and community bodies.

Mr Groom is a member of the AAT's Practice and Procedure Committee.

John Handley

Full-time Senior Member, Vic

John Handley was appointed a Member of the Victorian Administrative Appeals Tribunal (now Victorian Civil and Administrative Tribunal) in 1988 and a full-time tenured Senior Member of the Commonwealth AAT in 1989. He is a barrister and solicitor of the Supreme Court of Victoria and High Court and was in private practice between 1981 and 1988. He was a part-time member of the Crimes Compensation Tribunal during 1987 and 1988. From 1981 until 1988, he was a member of the Goulburn Valley College of TAFE. While in private legal practice in Shepparton during this time, he was also involved in the Shepparton self-help group and Council for Disabled Persons and for a time served as its President. He is an accredited mediator and has a special interest in dispute resolution and ombudsmen.

Mr Handley is a member of the AAT's Professional Development Committee.

Robin Handley, LLB, LLM**Full-time Deputy President, NSW**

Robin Handley is admitted as a solicitor in the United Kingdom and as a legal practitioner in the ACT and NSW. He has been a member of the AAT for six and a half years, including two years as a part-time member, and formerly served for nine years as a part-time legal member of the Social Security Appeals Tribunal. He has 25 years experience as an academic lawyer with a particular interest in administrative law and human rights. He taught for many years at the University of Wollongong, serving as Dean there for two years from October 1999.

Mr Handley was a member of the AAT's Practice and Procedure Committee, Professional Development Committee and Library Committee.

Lesley Hastwell, LLB, LLM**Part-time Senior Member, SA**

Lesley Hastwell was appointed a part-time Senior Member of the AAT in 2004. She is a legal practitioner in private practice. She has previously held appointments as a Deputy President of the Guardianship Board (1994–2004), legal member of the Social Security Appeals Tribunal (1987–1996) and legal member of the South Australian Dental Board (1992–1999). She has also had a background of academic involvement and at different times she has presented courses in The Law of Trusts and in Family Property Law at the Faculty of Law, University of Adelaide.

Rear Admiral Anthony Horton, AO, BA, RAN (Rtd)**Part-time Member, NSW**

Tony Horton has been a member of the AAT since June 1991. His appointment followed completion of service in the Royal Australian Navy, his last appointment being Flag Officer Naval Support Command. During this service he specialised in naval aviation and navigation, and held a number

of commands and senior positions, including responsibility for naval and civilian personnel and the naval legal branch. During a two-year posting in command of the Naval College, he was also appointed a Special Magistrate. He has interests in the merchant shipping industry and has been, and remains on, the boards of a number of charitable organisations.

Rear Admiral Horton is a member of the AAT's Constitution Committee.

Stanley Hotop, BA, LLB, LLM**Full-time Deputy President, WA**

Stan Hotop has been a part-time member of the AAT since 1991 and was a part-time Deputy President from March 2002 to June 2005 (although he previously acted in the latter capacity in 2000 and 2001). He was an Associate Professor of Law at the University of Sydney from 1980 to 1988 and at the University of Western Australia from 1989 to 2005. He was Dean and Head of the Law School at the University of Western Australia from 1990 to 1993, and was President of the Australasian Law Teachers' Association from 1990 to 1991. He taught administrative law in university law schools from 1971, first at the University of Sydney (1971–88), and subsequently at the University of Western Australia (1989–2005), and he is the author of textbooks in the area of administrative law.

Mr Hotop is the Deputy Chair of the AAT's Constitution Committee and a member of the Practice and Procedure Committee and the Library Committee.

Dr Gordon Hughes, LLB (Hons), LLM, PhD**Part-time Member, Vic**

Dr Hughes has been a partner at Blake Dawson Waldron since 1997 and is currently joint head of their national information technology, communications and media division. He was a managing partner of the Melbourne office of

Hunt & Hunt from 1993 until 1997 and partner with Lander & Rogers from 1979 until 1993. He is a past president of the Law Institute of Victoria (1992–93), the Law Council of Australia (1999–2000) and Lawasia (2001–03). He has written several legal text books, including one on accident compensation and one on privacy. He is also a qualified Grade 1 (top grade) arbitrator and an adjunct professor at RMIT University.

Robin Hunt, BA, LLM

Full-time Senior Member, NSW

Ms Hunt was appointed to the AAT in July 2004. She was previously a full-time Senior Member of the Migration Review Tribunal (MRT) in Canberra from October 2001. She was a full-time member of the MRT in Sydney from 1999 until 2001 and for a short time prior to that a part-time member of the Immigration Review Tribunal. Between 1996 and 2001 she also undertook work as a technical tax writer with Computer Law Services and Thompson Legal (Law Book Company). Prior to joining the MRT on a full-time basis, she was a senior associate and solicitor in private practice for over thirty years. Ms Hunt has tutored and lectured in tax, corporations and business law at Macquarie University and been an occasional lecturer in law at the University of Technology Sydney. She has a Bachelor and Master of Laws from the University of Sydney.

Mary Imlach, LLB

Part-time Senior Member, Tas

Mary Imlach was appointed to the AAT in July 2003. She was admitted to practise as a solicitor and barrister of the Supreme Court of Tasmania in 1966, and from 1984 to 2001 she was a partner in the Hobart law firm, Jennings Elliot. Jennings Elliot merged with Ogilvie McKenna in 2001, and Ms Imlach became a consultant to the new firm, Ogilvie Jennings. Prior to 1984, Ms Imlach worked for the firm of Simmons Wolfhagen. She has practised in all aspects of contractual and estate

matters. She has been involved over many years in a number of organisations, including as Director of the Heart Foundation of Tasmania, as a member of the Disciplinary Committee of the Law Society of Tasmania, as a delegate to the Constitutional Convention, as member of the Winston Churchill Trust, Tasmania, and the Hobart Benevolent Society, and as Chairperson of the Calvary Hospital Ethics Committee.

Naida Isenberg, LLB

Part-time Member, NSW

Naida Isenberg has been a part-time Member of the AAT since 2001. She is also a part-time Senior Member of the Veterans' Review Board, a District Court Arbitrator and a Law Society Panel Mediator and a Mediator with the Dust Diseases Tribunal. She is also a legal management consultant. Her previous experience includes general counsel of a major insurance company; Director of Crown Legal Services, NSW; and Deputy Director of the Australian Government Solicitor in Sydney. She is also a Lieutenant Colonel in the Army Reserve (Legal Corps) and a fellow of the Institute of Chartered Secretaries.

Deane Jarvis, LLB (Hons), FAICD

Full-time Deputy President, SA

Deane Jarvis was admitted as a barrister and solicitor of the Supreme Court of South Australia in March 1964. He was engaged in private practice until his appointment as a full-time Deputy President of the AAT from 1 July 2003. He was previously the senior partner and chairman of a prominent Adelaide commercial law firm. He is a former Chair of Bridgestone Australia Ltd and an Adelaide radio station, and is a former Director of Macquarie Broadcasting Holdings Limited. He served on the Council of the Law Society of SA Inc. for 10 years and is a former Chairman of that Society's Planning, Environment and Administrative Law Committee and Property Committee. He was the honorary consul-general

of Japan for South Australia from 2002–03. He is a former examiner in Administrative Law and a former part-time tutor in Australian Constitutional Law at the University of Adelaide. He is the Vice-convenor of the South Australian Chapter of the Council of Australasian Tribunals.

Mr Jarvis addressed the South Australian Chapter of the Australian Institute of Administrative Law on the role of the Administrative Appeals Tribunal in March 2005.

Mr Jarvis is a member of the AAT's Constitution Committee, Practice and Procedure Committee and Professional Development Committee.

Professor Graham Johnston AM, BSc, MSc, PhD, FRACI, FTSE

Part-time Member, NSW

Graham Johnston has been a member of the AAT since 1991. He is Professor of Pharmacology at the University of Sydney and trained as an organic chemist at the universities of Cambridge and Sydney. He brings expertise in chemistry, pharmacology and toxicology to the Tribunal. His scientific research is directed to the discovery of drugs to treat Alzheimer's disease, amnesia, anxiety, epilepsy and schizophrenia.

Josephine Kelly, BA, LLB

Full-time Senior Member, NSW

Josephine Kelly was in practice at the New South Wales Bar from 1986 until her appointment to the AAT in 2004. Her practice included administrative law and public law related areas, specialising in local government and environmental law, and related areas such as property and common law. She was statutory counsel for the Environment Protection Authority (NSW) from 1996 and has appeared in various courts, tribunals and inquiries. She was a member of Professional Conduct Committees of the NSW Bar Association from 2001 until 2004, and has been a committee member of various law related associations and

a trustee of a not-for-profit organisation. She edited *Environmental Law News* from 1989 to 2004. Before going to the Bar, she worked as an associate to a Judge, in administration and politics.

Ms Kelly presented a paper, 'Prosecuting summary offences in the Local Court and the Court of Criminal Appeal', at the Law Society of NSW Specialist Accreditation Department's Environmental Law seminar in February 2005.

Ms Kelly is a member of the AAT's Library Committee.

Dr Kevin Kennedy, OBE, MBBS, FRACP

Part-time Member, Qld

Kevin has been a member of the AAT since 1991. He is a specialist thoracic physician. Prior to 1991, Kevin had been Medical Superintendent of the Prince Charles Hospital in Brisbane for a period of 18 years, and during that time served on a number of hospital and health department committees. Subsequent to his retirement from the position of medical superintendent, Kevin has continued to work as a part-time thoracic physician at the Prince Charles Hospital.

Graham Kenny, BA, LLB (Hons), LLM

Part-time Member, Qld

Mr Kenny has been a part-time legal member of the AAT in Queensland since 2001. He was a part-time Member and Senior Member of the Veterans' Review Board from 1988 until March 2004. He was a part-time legal member of the Social Security Appeals Tribunal from 1995 until 2001 and Queensland convenor (part-time) of the Student Assistance Review Tribunal from 1988 until 1994. He is a senior lecturer in the School of Law at the University of Queensland, having joined in 1976. His current responsibilities include Chair of the Law School Teaching and Learning Committee, Director of the Bachelor of Laws and Juris Doctor programs, and Law School Chief

Examiner. He also continued to practise as a barrister from 1978 until 1989. He was a teacher with the Queensland Education Department from 1964 until 1974.

Dr Kenneth Levy, RFD, BA, BCom, LLB, PhD, MAPS, FCPA, Barrister-at-Law

Part-time Member, Qld

Dr Ken Levy has been a part-time Member of the AAT since 2004. He worked in the Queensland Public Service for approximately 36 years, retiring as Director-General of the Department of Justice in Queensland in December 2003. Since that time, he has been President of the professional accounting body, CPA Australia, and is a barrister and consultant. He was a Fulbright scholar at the University of California at Irvine and undertook postdoctoral psychological research into adolescent crime and the criminal justice system in the United States. His professional life included a wide experience in research, practice and management in the legal and accounting professions. He is currently on the Board and various committees of CPA Australia, where he was National President in 2004–05. He also has had a long association with the Australian Army and held various regimental, staff and instructional appointments. He remains committed to the Army where he is on the Standby Reserve and holds the rank of Lieutenant Colonel. He has been awarded the Reserve Force Decoration (RFD) and the Centenary Medal.

Dr Levy is a member of the AAT's Professional Development Committee and Library Committee.

Philip Lindsay, BA, LLB, MCom

Full-time Senior Member, NSW

Philip Lindsay was a Senior Member of the AAT, initially in Victoria and later in New South Wales, from December 2001 until his resignation in January 2005. Mr Lindsay brought a wide experience to the AAT in legal, commercial and taxation issues, both as a practising solicitor and

taxation consultant in private practice, as well as in the public sector. Mr Lindsay was a senior policy adviser in government during the recent reforms to the business taxation system and the introduction of the goods and services tax. He was the national tax technical director at KPMG, chartered accountants, for many years and has been a member of committees of the New South Wales branch of the Taxation Institute of Australia and of the Law Society of NSW.

Russell Lloyd, OBE, MC, RL, jssc, psc

Part-time Member, WA

Russell Lloyd has been a member of the AAT since 1991 and before that was a full-time Services Member of the Veterans' Review Board. He graduated from the Royal Military College Duntroon as an Infantry Officer in 1951 and served continuously in the Regular Army until retirement in 1985. He served in 1952–53 as a Platoon Commander in the Korean War and was wounded and decorated, and then served in Japan. He served in Australia and overseas, mainly in command of troops, including six years in Papua New Guinea prior to its independence and again on active service in the Vietnam War. He has also held senior staff appointments at Army Headquarters in Canberra, and as the Director of Defence Security at the Department of Defence. He was Australia's Defence Attaché at our embassy in the Philippines in 1977–79, and is a graduate of Australia's Army Staff College and the Joint Services Staff College.

Dr Patrick Lynch, MBBS, FFARACS, FANZCA, RFD, LTCOL RAAMC

Part-time Member, NSW

Patrick Lynch has been a part-time Member of the AAT since 1995. Dr Lynch has over 35 years experience as a medical practitioner and as a specialist anaesthetist. He has been relieving consultant anaesthetist at the Concord Repatriation Hospital since 1994. He is the

founder of the Concord Pain Clinic and was the Senior Staff Specialist (Anaesthesia) at Concord Hospital from 1975 to 1994. As an Army Reserve Officer he has experience as a Regimental Medical Officer and specialist anaesthetist to both the Reserve and Regular Army, as well as with 4 RAAF Hospital Butterworth Malaysia (1968–92). Whilst Honourable Federal Secretary of the Repatriation Medical Officers Association (1970–76) he gained experience in preparation and advocacy before the Public Service Arbitrator and the Full Bench of the Arbitration Commission.

Associate Professor Bernard McCabe, BA, LLB, GradDipLegPrac, LLM (Corp & Comm) (Dist)

Full-time Senior Member, Qld

Bernard McCabe has been a member of the AAT since July 2001, and a Senior Member since November 2003. He is an Associate Professor of Law at Bond University and has been a member of the faculty there since 1992. From 1998 to 2001, he served as a member of the legal committee of the Companies and Securities Advisory Committee, the federal government's peak corporate law advisory body. He continues to edit the consumer protection section of the *Trade Practices Law Journal*.

Associate Professor Peter Malcolm McDermott, RFD, LLB (Hons), LLM, PhD

Part-time Senior Member, Qld

Peter McDermott is a Reader in Law in the School of Law of the University of Queensland, where he lectures at undergraduate and postgraduate levels in equity, commercial equity, constitutional law, and advanced trust administration. He was the Senior Legal Officer (1982–88) and later the Principal Legal Officer (1988–91) of the Queensland Law Reform Commission. Since 1991 he has been an academic. He accepted a term appointment as an Assistant Commissioner of Taxation, Australian Tax Office (1998–99) to contribute to the Ralph reform process. He is the author of *Equitable Damages* (foreword

by Sir Robert Megarry, FBA) (1994). He is a co-author of *Principles of the Law of Trusts* (3rd ed., 1996). He undertook research with the late Justice Richard Cooper of the Federal Court of Australia on mortgages of ships. His recent publications include: 'Damages in equity' in *Table Talk of the Selden Society in Queensland* (Supreme Court of Queensland Library, 2005), pp. 25–44; and (with B Freudenberg) 'The forgotten CGT events: Are asset revaluation reserve distributions by trustees of discretionary trusts capital gains?' (2005) *Australian Tax Review*, 34 (2) pp. 67–87. Since 1978 he has been a barrister of the Supreme Court of Queensland. In the *Wik* case he was junior counsel to the late Sir Maurice Byers QC before both the Federal Court of Australia and the High Court of Australia. He is a member of the Bar Association of Queensland.

Brigadier Graham Maynard, MBBS, MSc (OCC MED), DIH, DTM&H

Part-time Member, Vic

Brigadier Maynard was appointed as part-time Member of the AAT in July 2004. After graduating in Queensland in 1965 he spent twenty-seven years as an Army medical officer commencing with duties as an Infantry Battalion Medical Officer in SVN and finishing with retirement as Director of Medical Services for the Army in 1990. His career included postings in clinical positions, hospital command, malaria research and senior command. Specialist training was in tropical medicine and occupational medicine. From 1990 to 2002 he was employed as a senior medical officer in the Commonwealth Department of Health with responsibilities at various times in food safety, Australian Government Health Services management, Creutzfeldt-Jakob Disease matters and finally as Chief Medical Adviser for Medical Devices at the Therapeutic Goods Administration.

Dr John Maynard, MBBS, FRCPA, AFAIM**Part-time Member, Vic**

Associate Professor John Maynard was appointed to the AAT as a specialist medical member in 1999. He has been a pathologist with the Victorian Institute of Forensic Medicine at the Coroner's Court and sessional pathologist at Geelong Hospital since 1997, and lecturer in pathology and clinical associate professor in the Department of Pathology and Immunology at Monash University since 1994. He had extensive prior experience as a practising pathologist at various hospitals in Melbourne and in regional Victoria. He has published and lectured widely in the fields of pathology, safety, quality systems and accreditation, and authored three books. He is an active member of a number of professional and community organisations. He also served in Vietnam as a pathologist with the Australian Army in 1970.

Dr Maynard is a member of the AAT's Professional Development Committee.

Dr Michael Miller, AO, MBBS, FRANZCOG, FRCOG, FAFPHM, AVM (Ret)**Part-time Member, ACT**

Dr Michael Miller was appointed to the AAT on 9 August 1995. He had a specialist medical practice in Brisbane from 1964 to 1968. He became an RAAF officer in 1968. His appointments included Senior Medical Officer Vietnam 1970–71, Commanding Officer 4 RAAF Hospital Butterworth Malaysia 1974–75 and exchange duty with United States Air Force 1977–79. His various staff appointments included Director of Medical Plans and Deputy Director General Air Force Health Services. He was appointed Director General Air Force Health Services in 1987 with rank of Air Vice Marshal and Surgeon General Australian Defence Force in 1990. He retired in September 1992.

He is a consultant to the Surgeon General; Chair, Board of Directors, St John Ambulance (ACT); and Chair, National Advisory Committee on Veterans' Health, Returned and Services League, National Headquarters, Canberra.

Dr Miller is a member of the AAT's Constitution Committee.

Associate Professor Barrie Morley, RFD, MBBS, FRACP, FRCP**Part-time Member, Qld**

Barrie Morley, a consultant neurologist since 1965, has been a part-time Member of the AAT since November 1985. He was consultant neurologist to the RAAF Specialist Medical Reserve, 1969–89. Initially appointed in 1972 as a medical member of the War Pensions Assessment Appeals Tribunal, he served on the (then) Repatriation Review Tribunal, and then on the Veterans' Review Board. He was formerly Dean of the Clinical School and Head of Medicine of the (now) Monash Medical Centre. He came to Queensland in 1992, and is now Associate Professor of Medicine to the South West Division (in Toowoomba) of the Rural Clinical School of the University of Queensland.

Graham (Bert) Mowbray, BRurSc, DipAgEc, LLB**Full-time Member, ACT**

Bert Mowbray was a full-time Member of the AAT in Canberra from 2001 until his appointment as a Federal Magistrate in August 2004. Prior to being appointed to the Tribunal, Mr Mowbray was General Counsel (Immigration) with the Australian Government Solicitor. From 1989 to 1992, he was Director of Research for the Administrative Review Council. He was National President of the Australian Institute of Administrative Law until October 2004 and a member of the National Executive of that organisation from 1992 to October 2004.

Donald Muller, LLB**Full-time Deputy President, Qld**

Donald Muller has been a full-time member of the AAT since he was appointed Senior Member on 31 March 1988. He was appointed Deputy President on 9 August 2002. He was in private practice as a barrister for 17 years from February 1971 to March 1988. He was a part-time lecturer in company law and commercial law at Queensland Institute of Technology for three years from 1971 to 1974.

Mr Muller is a member of the AAT's Constitution Committee and Practice and Procedure Committee.

The Honourable Howard Olney, AM, QC, LLB**Part-time Deputy President, Vic**

Mr Olney AM was appointed to the AAT as a Deputy President in June 2005. He is currently the acting Aboriginal Land Commissioner in the Northern Territory (since 2003). Prior to this he was a Judge of the Federal Court of Australia, Additional Judge of the Supreme Court of the Northern Territory and Presidential Member of the Administrative Appeals Tribunal (1988–2003). He is a former Deputy President of the Federal Police Disciplinary Tribunal (1991–2001) and Deputy President of the National Native Title Tribunal (1994–99). He was a Judge of the Family Court of Australia (1988–90) and the Supreme Court of Western Australia (1982–88) and is a former Member of the Legislative Council of Western Australia (1980–82).

Mr Olney has extensive administrative law experience at the highest level throughout Australia. He graduated with a Bachelor of Laws from the University of Western Australia and was admitted as a barrister and solicitor to the Supreme Court of Western Australia in 1957. Mr Olney was appointed Queen's Counsel in 1980. He was awarded a Member of the Order of Australia in 2005 for service to the law and the judiciary, particularly in relation to Indigenous land issues.

Bruce Pascoe, FCA, FTIA, MIAMA**Part-time Senior Member, Vic**

Bruce Pascoe has been a member of the AAT since December 1991 and a Senior Member since April 1995. Until 1991, he was a senior partner of Ernst & Young, Chartered Accountants, where he specialised in taxation and corporate finance. He is a former President of the Taxation Institute of Australia, former National Treasurer of the Institute of Arbitrators and Mediators Australia and a Grade 1 Arbitrator and Accredited Mediator with that Institute. He was Chair of the Tax Agents Board (Victoria) until 1997. He is a director of several companies.

Steven Penglis, BJuris, LLB**Part-time Senior Member, WA**

Steven Penglis was appointed to the AAT as a part-time Senior Member in June 2005. Steven is a senior commercial litigator with the national law firm of Freehills, which he joined in 1983, becoming a partner in 1987. He is an elected member of the Legal Practice Board of Western Australia (since 1996) of which he is also the Chairman (since 2002). Steven is an elected member of Council of the Law Society of Western Australia (since 2002) and is also the Convenor of the Society's Courts Committee (which he also convened from 1995 to 2000). He is the Chair (since 1992) of Freehills' Perth Pro Bono Committee.

Regina Perton, BA, LLB, Dip Ed**Full-time Member, Vic**

Regina Perton has been a full-time Member of the AAT since August 2004. Prior to her AAT appointment, she was a Senior Member of the Migration Review Tribunal. She has also been a member of the Refugee Review Tribunal and the Immigration Review Tribunal. She was a member of the Victorian Equal Opportunity Commission and a Commissioner of the Victorian Multicultural

Commission and of a major Victorian inquiry into illicit drug issues. Ms Perton has held management positions in several dispute resolution bodies including Registrar of the Victorian Residential Tenancies Tribunal and Small Claims Tribunal. Other roles have included working for the Parole Board, in real estate and as a secondary teacher. She has been a member of various boards and committees of professional, health and community organisations including the Austin & Repatriation Medical Centre and the Turning Point Alcohol & Drug Centre.

This year Ms Perton was a speaker at a seminar, 'Succeeding in Law as your second (or third) career', which was organised by the Law Institute of Victoria's Young Lawyers Group and Later Lawyers Group.

Wendy Purcell, BA, LLB

Full-time Senior Member, SA

Wendy Purcell has been a Senior Member of the AAT since 17 October 1988. In August 1974, she was appointed the first Deputy Director of the Australian Legal Aid Office in South Australia. The Adelaide office was the first Australian Legal Aid Office to open in a capital city. She became Registrar of the Family Court of Australia in September 1978, and subsequently Master of the Family Court. She was a member of the Child Support Consultative Group, which reported to the Minister of Social Security in relation to the development of a formula for assessment of child maintenance by the Child Support Agency.

The Honourable Rodney Purvis, AM, QC, BA, DipLaw, DipCrim, MLitt, FCA

Part-time Deputy President, NSW

Deputy President Purvis has been a presidential member of the AAT since June 1986. He has professional expertise in the areas of law, accounting and criminology, and expertise or Tribunal experience in the areas of corporations law, family law, mediation and arbitration, and private and public international law. In 1998, after 13 years on the bench, he retired as a judge of the

Family Court. He was Chair of the Trade Practices Committee of the Law Council of Australia for 12 years from 1978 and has served in a formidable variety of capacities as a member, chairman or president of various committees and organisations.

Linda Savage Davis, BA (Hons), LLB, MA

Part-time Member, WA

Linda Savage Davis was a member of the Social Security Appeals Tribunal in Western Australia from 1994 and its Director from 1999 until 2002. She has served on a number of advisory committees and boards and in 1997 was awarded the Lawyers Community Service Award by the Law Society of WA for outstanding service in the community. She was a member of Chief Justice David Malcolm's Gender Bias Taskforce and Chair of the committee that established the Women's Legal Service in WA. She is currently a member of the WA Reproductive Technology Council and on the board of the Art Gallery of Western Australia.

Elizabeth Anne Shanahan, BSc, MBBS, FRACS, LLB

Part-time Member, Vic

Anne Shanahan is a cardiothoracic surgeon who has worked both in public and private hospitals in Victoria for 37 years. She is also a barrister and has been a part-time Member of the AAT since 1990. From 1973 until 1985, Miss Shanahan was a senior lecturer in the Department of Surgery at Monash University. She has served on numerous hospital committees and a hospital Board of Management, in addition to the Health Service Commissioners Review Council, an HIC Committee and the Red Cross International Humanitarian Law Committee.

Professor Emeritus Ivan Shearer, AM, RFD, LLB, LLM, SJD

Part-time Senior Member, NSW

Professor Shearer retired as Challis Professor of International Law at the University of Sydney on 31 December 2003. He is a former Professor of Law (1975–92) and Dean of the Faculty of Law (1984–90) at the University of New South Wales. In 2002 he was elected to the United Nations as a member of the Human Rights Committee for a four year term and was re-elected to a second term in 2004. He retired from the Royal Australian Navy Reserve, with the rank of Captain, in 2000. His current appointments include Member of the Panel of Arbitrators of the Permanent Court of Arbitration, The Hague, President of the Australian Branch of the International Law Association and elected member of the International Institute of Humanitarian Law. In 1999, and again in 2002, Professor Shearer served as a judge ad hoc on the International Tribunal for the Law of the Sea. He has been a special consultant to UN development programs and the Australian government and has published widely and presented lectures and seminars both nationally and internationally on a broad range of international law matters. Professor Shearer was made a member of the Order of Australia in 1995.

John Gordon Short, LLB

Part-time Member, SA

John Short joined the AAT in 2004. He was a part-time Member of the Social Security Appeals Tribunal in Adelaide (1989–2004), a part-time Member of the Veterans' Review Board (1993–97) and a part-time Member of the Residential Tenancies Tribunal (SA) (2001–04). Mr Short lectured in Contract Law on a part-time basis at the Douglas Mawson Institute (SA) (1989–92). Mr Short has been a part-time Child Support Review Officer since 1992. He completed a LEADR mediation course in 1997 and was a legal practitioner in general practice from 1984

until 1992. Mr Short maintains a strong interest in alternative dispute resolution.

Professor Tania Sourdin, BA, LLB, LLM, PhD

Part-time Member, NSW

Professor Tania Sourdin has been a part-time Member of the AAT since 2001. She is currently the Professor of Law and Dispute Resolution at La Trobe University and has worked as a lawyer, court registrar, academic, mediator and tribunal member since being admitted to practise as a lawyer in 1985. She was a legal specialist with the Australian Law Reform Commission and has published many papers and books in the area of alternative dispute resolution, litigation and research into dispute resolution processes. She is a member of the National Alternative Dispute Resolution Advisory Committee, and attended a number of conferences as a keynote and specialist speaker during the past year.

Professor Sourdin is a member of the AAT's Constitution Committee and Professional Development Committee.

Peter Staer, MBBS, DObst (RCOG), FRCS (Eng), FRACS

Part-time Member, WA

Peter Staer has been in medicine for 45 years, primarily as a surgeon/gynaecologist, and has been a member of the AAT since 1985. Previously, he was a Member of the Repatriation Review Tribunal and Veterans' Review Board. He has served on the Nurses' Examination Board and various medical advisory committees. He is a qualified mediator. He spends two to three months per year in voluntary work in developing countries.

John Stein, AO, BA, FRMTC (Civil Eng)

Part-time Member, Qld

John Stein served in the Australian Regular Army from 1954 to 1991, retiring as a Major General. His service included Borneo, Vietnam, and the

Territory of Papua and New Guinea. He was the Chief Executive Officer of the Queensland Spastic Welfare League from 1991 to 2000. He has been a member of the AAT since 1995.

Dr Maxwell Thorpe, MBBS, MD, FRACP

Part-time Member, NSW

Max Thorpe has been a member of the AAT since November 1985 and was previously a member of the Repatriation Review Tribunal. He was a consultant physician in private practice and Visiting Medical Officer, Prince of Wales Hospital, where he was Warden of the Clinical School, University of New South Wales, for 28 years. Dr Thorpe is now an Honorary Consultant Medical Officer at the Prince of Wales Hospital. He is currently Chairman of the Appeals Committee, Overseas Doctors, Australian Medical Council. He was previously a WHO Consultant in Cambodia to advise on postgraduate education. Dr Thorpe is a Guest Professor, Harbin Medical University, China and director of an exchange of medical specialists from Harbin Medical University China with teaching hospitals of the University of New South Wales. He has extensive involvement in insurance and reinsurance medicine. Dr Thorpe's interests include rugby union, forestry and horse breeding.

Lisa Tovey, BJuris, LLB, LLM (Dist)

Part-time Member, WA

Lisa Tovey was appointed to the AAT as a part-time Member in June 2005. Ms Tovey has been a barrister at John Toohey Chambers in Perth since 2003. She is also a part-time senior lecturer at the University of Notre Dame Australia. She was admitted as a barrister and solicitor of the Supreme Court of Western Australia and High Court of Australia in 1992. She commenced practice with Corrs Chambers Westgarth and then worked as Associate to the Hon Justice Rowland at the Supreme Court of Western Australia. Ms Tovey was a Crown Prosecutor within the Office of the Director of Public Prosecutions

for Western Australia between 1996 and 2001. As well as lecturer and senior lecturer, Ms Tovey has been the Course Controller for both the Law of Evidence and Administrative Law courses at the University of Notre Dame Australia.

Ms Tovey is currently the presiding member of the Osteopaths Registration Board of Western Australia, having served as the deputy presiding member between 2003 and 2004. She is also a Legal Aid Western Australia Review Committee member. Ms Tovey was also a Lieutenant in the Royal Australian Naval Reserves between 1994 and 2001.

Dean Trowse, Chartered Accountant

Part-time Member, SA

Dean Trowse has been a member of the AAT since 1986. He was previously a partner in a firm of chartered accountants for 27 years, followed by membership of the Taxation Board of Review No. 2. He also lectured in income tax law and accountancy at the South Australian Institute of Technology for 15 years.

Mr Trowse was a member of the AAT's Constitution Committee.

Brigadier Anthony Gerard (Gerry) Warner, AM, LVO, BSc (Hons), DipMilStud, FAICD

Part-time Member, WA

Brigadier Warner was appointed to the AAT in June 2005. His military career following graduation from the Royal Military College, Duntroon, included extensive command experience, tours on the personal staff of Governors-General, pivotal operations and personnel staff appointments, and UN peacekeeping on the Golan Heights and in Southern Lebanon. He was the senior Defence representative in WA in 1996–97 and in his final posting was Chief of Staff Land Headquarters in Sydney during a period of intense operational tempo including the East Timor campaign and support to the Olympic Games. After separation

from the Army in 2003, he was appointed to the independent committee convened by the Board of Western Power to report on the power supply crisis of February 2004. He is a Sessional Senior Member of the State Administrative Tribunal (WA) and a member of the Mental Health Review Board (WA).

Professor Emeritus Geoffrey Walker, LL.D.

Full-time Deputy President, NSW

Professor Walker was admitted to the Bar in 1965 and subsequently gained extensive legal experience in private practice, industry and government. In 1978 he joined the academic staff of the Australian National University and has also taught law at the universities of Sydney, Queensland and Pennsylvania. For eleven years, until returning to the Bar in 1997, he was Dean of Law at the University of Queensland. He is the author of four books, including *The Rule of Law: Foundation of Constitutional Democracy* (1988), and approximately 100 articles in legal and related journals. Professor Walker joined the AAT in 2004 as Deputy President.

Professor Walker presented a paper, ‘The value of civil claims—How should courts and tribunals allocate resources?’, at the 22nd Annual Conference of the Australian Institute of Judicial Administration in Sydney in September 2004.

Professor Walker is Deputy Chair of the AAT’s Professional Development Committee and a member of the Practice and Procedure Committee, the Information Technology Steering Committee and the Library Committee.

Ian Way, BEng, MBA

Part-time Member, NSW

Ian Way was first appointed to the AAT in 1992. He has had extensive Army service in the Corps of Royal Australian Engineers, including operational service in Korea, Japan, Singapore and Vietnam (retired Brigadier). He has also held various senior administrative positions in the University of NSW until his retirement in 1992 as University Registrar

and Deputy Principal (Administration). He was an Honorary Aide-de-Camp to the Governor-General in 1981–84 and a Director of the National Institute of Dramatic Art in 1988–90.

Simon Webb

Full-time Member, ACT

Simon Webb was appointed to the AAT in July 2001. From 1997–2001 he held the office of Deputy Director of the Commonwealth Classification Board, with extensive periods acting in the office of Director. During this period he was Secretary of the Commonwealth, State and Territory Censorship Ministers’ Council. From 1994, Simon worked with Commonwealth, State and Territory ministers and officials to implement revised censorship laws in a cooperative national legislative classification scheme, establishing the Classification Board and the Classification Review Board in 1996, and with Australian Customs reviewing prohibited import and export regulations and related administrative procedures. Previously, Simon conducted a management consultancy and was General Manager of the Arts Council of Australia. He has over 25 years senior management and public administration experience, and is an accredited mediator.

This year Mr Webb assisted with a training program for Department of Veterans’ Affairs advocates at the University of Canberra in September 2004.

Dr David Weerasooriya, MBBS, MRCP (Lond.), MRCP (Edin.), MRCP (Glas.), DCH

Part-time Member, WA

David Weerasooriya has been a part-time Member of the AAT since 1996. Previously, he was a medical member of the Social Security Appeals Tribunal from 1994 to 1996. He was practising as a specialist physician, paediatrician and vocationally registered general practitioner in Kalgoorlie from 1972 to 1976, and in Perth thereafter.

He was a visiting specialist physician to Wanneroo Hospital from 1989 until 1996. He was a senior lecturer in paediatrics at the University of Ceylon, Colombo. Dr Weerasooriya did his postgraduate training in the United Kingdom between 1959 and 1964. He was the author of a textbook on health science for GCE 'O' level students in Sri Lanka. Dr Weerasooriya is a qualified mediator.

Dr Weerasooriya is a member of the AAT's Library Committee.

The Honourable Christopher Wright, QC, BBL

Part-time Deputy President, Tas

Deputy President Wright has been a part-time Deputy President of the AAT since February 2001. From 1986 until 2000, he was a judge of the Supreme Court of Tasmania, having been Solicitor General from 1984 until 1986. He practised at the Tasmanian Bar from 1977 until 1983 and was a magistrate in Hobart from 1972 until 1977. Between 1959 and 1972, he was a partner in the Hobart law firm Crisp Wright and Brown. Other appointments he has held include Chairperson of the Retirements Benefits Fund Investment Trust (1984–86), the Social Security Appeals Tribunal (1979–83) and the Tenancy Law Review Committee in Tasmania (1979), and President of the Bar Association of Tasmania (1977–79). He was appointed as Chairman of the Tasmanian Police Review Board in 2004. He was appointed Queen's Counsel in 1984.

Appendix 2: Staff of the Tribunal

Table 2.1 Employment by registry—ongoing full-time, ongoing part-time and non-ongoing staff as at 30 June 2005

Salary range	Registries							Principal Registry ^a	Total
	NSW	Vic	Qld	SA	WA	ACT	Tas		
\$31,185–34,465	-	-	1	-	-	-	-	-	1
\$35,293–43,386	14	12	12	7	9	2	-	2	58
\$44,801–48,644	12	9	7	4	1	3	1	5	42
\$49,969–52,988	1	1	-	1	1	-	-	6	10
\$53,969–61,996	2	1	1	-	-	-	-	11	15
\$67,387–80,700	-	-	-	1	1	1	-	6	9
\$82,097–93,333	4	3	4	1	1	1	-	3	17
\$88,294–105,602	-	-	-	-	-	-	-	1	1
	33	26	25	14	13	7	1	34	153

a Principal Registry staff are based in Brisbane (14), Sydney (15), Melbourne (2), Canberra (1), Adelaide (1) and Perth (1), and include Library and Information Technology staff outposted to the District Registries.

The figures in this table also include 18 non-ongoing staff employed at various locations for duties that are irregular or intermittent.

Staff on long-term unpaid leave of absence or long-term temporary transfer to another agency are not included in these figures. If these staff have been replaced, the replacement staff are included.

Table 2.2 Equal employment opportunity statistics—ongoing full-time, ongoing part-time and non-ongoing/irregular staff of the Tribunal as at 30 June 2005

Class	Salary range	Total staff	Women	Men	NESB	PWD	ATSI
APS 1	\$31,185–34,465	1	1	-	-	-	1
APS 2/3	\$35,293–43,386	58	41	17	13	3	1
APS 4	\$44,801–48,644	42	31	11	7	-	1
APS 5	\$49,969–52,988	10	5	5	3	-	-
APS 6	\$53,969–61,996	15	11	4	-	-	-
Exec 1	\$67,387–80,700	9	5	4	-	-	-
Exec 2	\$82,097–93,333	17	12	5	3	-	-
SES 1	\$88,294–105,602	1	1	-	-	-	-
Total		153	107	46	26	3	3

ATSI=Aboriginal and Torres Strait Islanders; NESB = people of non-English-speaking background; PWD=people with disabilities

Note: The data in this table is based in part on information provided by staff on a voluntary basis.

■ Table 2.3 Employment status statistics as at 30 June 2005

Class	Salary range	Total staff	Women	Men	Part Time	Full Time	Irregular/ Intermittent	AWAs	Certified Agreement
<i>APS 1</i>	\$31,185–34,465	1	1	-	-	1	-	-	1
<i>APS 2/3</i>	\$35,293–43,386	58	41	17	2	38	18	-	58
<i>APS 4</i>	\$44,801–48,644	42	31	11	1	41	-	-	42
<i>APS 5</i>	\$49,969–52,988	10	5	5	-	10	-	-	10
<i>APS 6</i>	\$53,969–61,996	15	11	4	4	11	-	-	15
<i>Exec 1</i>	\$67,387–80,700	9	5	4	-	9	-	-	9
<i>Exec 2</i>	\$82,097–93,333	17	12	5	4	13	-	2	15
<i>SES 1</i>	\$88,294–105,602	1	1	-	-	1	-	1	-
Total		153	107	46	11	124	18	3	150

Appendix 3: Statistics for the year ending 30 June 2005

This appendix contains statistical information on different aspects of the Tribunal's workload during 2004–05. In some areas, information relating to previous years has been provided for the purposes of comparison.

The information contained in this appendix is summarised below.

Table or chart reference	Overview of information contained in table or chart
3.1	Lodgements and finalisations for all jurisdictions
3.2	Lodgements in each registry
3.3	Finalisations in each registry
3.4	Finalisations without a hearing
3.5	Outcomes of matters finalised
3.6	Status of current applications
3.7	Current applications in each registry
3.8	Constitution of tribunals for hearings
3.9	Conferences, mediations, hearings and interlocutory hearings
3.10, 3.11 and 3.12	Appeals to the Federal Court and Federal Magistrates Court from decisions of the Tribunal (lodgements, appeals determined and outcomes of appeals)

Table 3.1 Applications lodged and finalised for all jurisdictions, 2004–05

Jurisdiction	Applications lodged		Applications finalised	
	No.	%	No.	%
Bankruptcy	28	<1	33	<1
Compensation				
Australian Postal Corporation	409		437	
Comcare	590		772	
Defence Compensation	357		460	
Telstra	308		356	
Seafarers' compensation	62		70	
Other compensation decision makers	21		30	
<i>Subtotal</i>	1747	23	2125	28
Corporations	38	<1	30	<1
Customs and Excise				
<i>Commerce (Trade Descriptions) Act 1905</i>	1		1	
Customs Duty	6		21	
Customs Tariff matters	19		14	
Diesel Fuel Rebate	4		20	
Excise	2		2	
Export Entry	0		1	

Table 3.1 Applications lodged and finalised for all jurisdictions, 2004–05 *continued*

Jurisdiction	Applications lodged		Applications finalised	
	No.	%	No.	%
Import and Export of Censored Goods	1		1	
<i>Subtotal</i>	33	<1	60	<1
Environment				
Environment Protection and Biodiversity	1		5	
Great Barrier Reef Marine Park Authority	1		0	
<i>Hazardous Waste (Regulation of Exports and Imports) Act 1989</i>	1		1	
<i>Subtotal</i>	3	<1	6	<1
Family Assistance, Social Security and related decisions				
Age Pension	98		99	
Assurance of Support	1		1	
Austudy Payment	14		9	
Bereavement Payments	2		3	
Carer Payments	74		76	
Child Care Benefit	3		1	
Child Disability Allowance	2		2	
Compensation Preclusion Period	48		50	
Crisis Payment	0		3	
Disability Support Pension	332		356	
Double Orphan Pension	1		0	
Family Tax Benefit	65		58	
Farm Household Support	2		0	
Maternity Allowance	6		9	
Mature Age Allowance	2		4	
Mobility Allowance	11		10	
Newstart Allowance	88		84	
One-off Bonus Payment to Families and Carers	4		3	
Overpayment and Debt Recovery	581		672	
Parenting Payment	53		50	
Partner Allowance	8		7	
Pension Bonus Scheme	22		18	
Pensioner Education Supplement	3		2	
Rent Assistance	11		9	
Sickness Allowance	3		4	

■ **Table 3.1 Applications lodged and finalised for all jurisdictions, 2004–05** *continued*

Jurisdiction	Applications lodged		Applications finalised	
	No.	%	No.	%
Special Benefit	11		12	
Special Category Visa Holder Determination	9		10	
Widow Allowance/Pension	2		2	
Wife Pension	1		3	
Youth Allowance	37		39	
<i>Subtotal</i>	1494	19	1596	21
Health and Aged Care				
Aged Care Providers	5		10	
Aged Care Recipients	2		3	
<i>Health Insurance Act 1973</i>	7		6	
<i>Hearing Services Administration Act 1997</i>	0		1	
Medical and Hospital Benefit Funds	1		2	
Pharmacists	6		9	
Therapeutic Goods Administration	0		3	
<i>Subtotal</i>	21	<1	34	<1
Immigration, Citizenship and Passports				
Australian Citizenship	123		114	
Business Visa Cancellation	164		119	
Criminal Deportation	0		2	
Expedited Review of Visa Cancellation/Refusal under s. 501 of the <i>Migration Act 1958</i>	98		87	
Immigration—Guardianship of Children	1		0	
Passports	12		4	
Protection Visa Cancellation/Refusal	5		7	
Visa Cancellation/Refusal under s. 501 of the <i>Migration Act 1958</i>	70		99	
<i>Subtotal</i>	473	6	432	6
Industry				
Automotive Competitiveness and Investment Scheme	1		0	
Export Market Development Grants	6		8	
Industry Research and Development	2		2	
Patents, Designs and Trade Marks	6		4	
Textile Clothing and Footwear	3		3	
<i>Subtotal</i>	18	<1	17	<1

Table 3.1 Applications lodged and finalised for all jurisdictions, 2004–05 *continued*

Jurisdiction	Applications lodged		Applications finalised	
	No.	%	No.	%
Information				
<i>Freedom of Information Act 1982</i>	142		130	
<i>Subtotal</i>	142	2	130	2
Primary Industries				
Agricultural and Veterinary Chemicals	2		5	
Australian Fisheries Management Authority	19		20	
Australian Wine and Brandy Corporation	3		1	
<i>Dairy Produce Act 1986</i>	1		13	
<i>Subtotal</i>	25	<1	39	<1
Professional Qualifications				
Customs Agents	0		1	
Marriage Celebrants	6		11	
Migration Agents	40		44	
Mutual Recognition of Occupations in Australia	5		4	
Patent and Trade Marks Attorneys	0		1	
Tax Agents	29		21	
<i>Subtotal</i>	80	1	82	1
Security Appeals				
ASIO Assessments	7		1	
<i>Subtotal</i>	7	<1	1	<1
Small Taxation Claims Tribunal				
Extension of Time Refusals	15		16	
Income Tax (other than taxation scheme applications)	112		104	
Superannuation Contributions Tax	9		10	
Taxation Release	41		31	
Taxation Schemes	3		5	
Other matters	33		59	
<i>Subtotal</i>	213	3	225	3
Taxation (excluding Small Taxation Claims Tribunal applications)^a				
Australian Business Number	4		4	
Fringe Benefits Tax	71		19	
Goods and Services Tax	145		91	
Income Tax (other than taxation scheme applications)	697		645	

Table 3.1 Applications lodged and finalised for all jurisdictions, 2004–05 *continued*

Jurisdiction	Applications lodged		Applications finalised	
	No.	%	No.	%
Luxury Car Tax	0		2	
Payroll Tax	0		2	
Sales Tax	0		1	
<i>Superannuation Contributions Tax (Assessment and Collection) Act 1997</i>	4		2	
Superannuation Guarantee Charge	14		19	
Taxation Administration	45		29	
Taxation Schemes	1160		662	
Wine Equalisation Tax	0		1	
<i>Subtotal</i>	2140	28	1477	20
Transport				
Air Navigation	3		2	
Airports Act and Regulations	5		3	
Aviation Transport Security Act and Regulations	1		1	
Civil Aviation Safety Authority	28		23	
Motor Vehicle Standards	15		14	
<i>Subtotal</i>	52	<1	43	<1
Veterans' Affairs				
Attendant Allowance	1		2	
Defence Service Homes	1		1	
Disability Pension—Assessment	312		301	
Disability Pension—Entitlement	428		493	
Gold Card	2		7	
Income Support Supplement	2		2	
Pension Bonus Scheme	0		2	
Repatriation Pharmaceutical Benefit	1		1	
Service Pension	65		56	
Veterans' Allowances	10		7	
VRB—Procedural Decisions	6		1	
Widows' Pension	157		153	
Widows' Pension Reinstatement	1		1	
<i>Subtotal</i>	986	13	1027	14

Table 3.1 Applications lodged and finalised for all jurisdictions, 2004–05 *continued*

Jurisdiction	Applications lodged		Applications finalised	
	No.	%	No.	%
Other				
<i>Aboriginal Corporations and Associations Act 1976</i>	1		0	
Australian Broadcasting Authority	3		1	
Australian Communications Authority	2		1	
Australian Sports Drug Agency	2		2	
Child Support	31		28	
Commonwealth Electoral Act	0		1	
Defence Enactments	2		2	
Defence Force Retirement Death Benefits	19		26	
Financial Sector Regulation	26		15	
Higher Education Funding	17		20	
Land Acquisition	1		0	
<i>Privacy Act 1988</i>	0		1	
<i>Protection of Moveable Cultural Heritage Act 1986</i>	1		0	
Review of Costs	1		0	
Waiver of Fees in Courts and Tribunals	4		1	
<i>Subtotal</i>	110	1	98	1
Case Management				
No Jurisdiction/Uncertain Jurisdiction	68		71	
Miscellaneous	1		0	
<i>Subtotal</i>	69	<1	71	<1
Total for all jurisdictions^b	7679	100	7526	100

^a These figures do not include all matters that are dealt with in the Taxation Appeals Division.

^b Percentages do not total 100% due to rounding.

Chart 3.2 Applications lodged in each registry

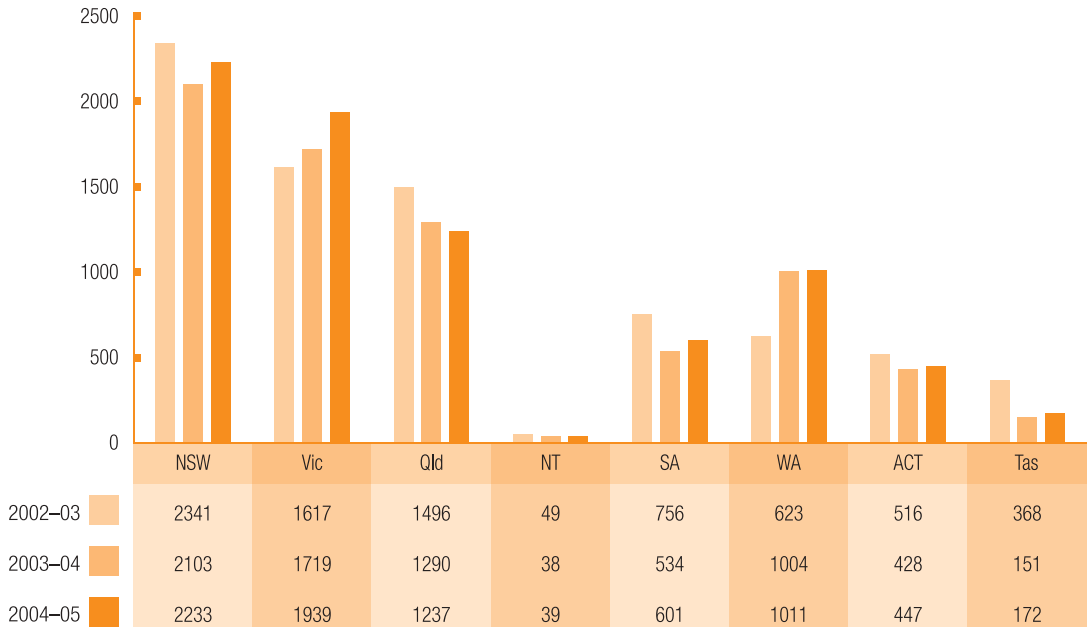


Chart 3.3 Applications finalised in each registry

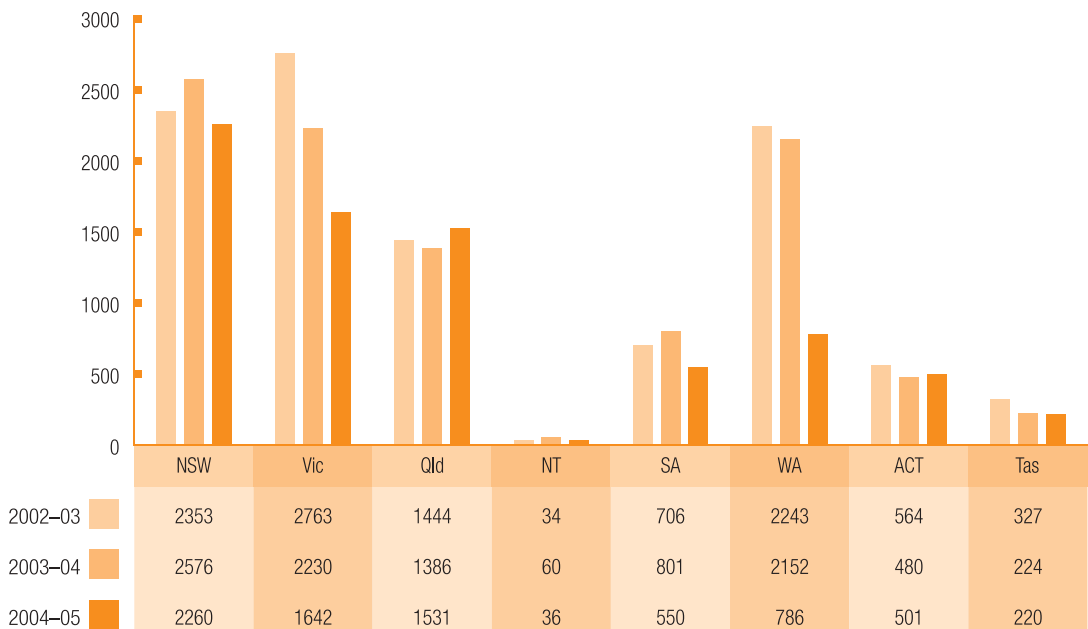


Table 3.4 Percentage of applications finalised without a hearing

Jurisdiction	2002–03 %	2003–04 %	2004–05 %
All applications	74 ^a	81	78
Compensation	89	86	87
Social Security	67	69	73
Veterans' Affairs	72	71	71
Taxation Division	96	97	83
Small Taxation Claims Tribunal	73	85	75

a In previous reports, this figure was provided in relation to the proportion of applications finalised without a hearing in the General Administrative and Veterans' Appeals Divisions rather than in relation to all applications. This figure relates only to the General Administrative and Veterans' Appeals Divisions.

Note: Applications finalised without a hearing include all applications that were finalised otherwise than by a Tribunal decision following a hearing on the merits. For example, applications finalised by consent pursuant to sections 34D or 42C of the AAT Act or withdrawn by the applicant under section 42A(1A) of the AAT Act are included in this category.

Table 3.5 Applications finalised in 2004–05, by outcome

Outcome	All applications		Compensation		Social Security		Veterans' Affairs		Taxation Division		Small Taxation Claims Tribunal	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
<i>By consent</i>												
Affirmed	518	7	360	17	5	<1	5	<1	144	10	4	2
Set aside	1836	24	785	37	214	13	264	26	385	25	47	21
Varied	714	9	184	9	33	2	112	11	354	23	21	9
Remitted	31	<1	5	<1	0	0	4	<1	0	0	1	<1
Dismissed/Withdrawn ^a	2220	29	477	22	804	50	321	31	246	16	69	31
<i>By decision</i>												
Affirmed	1069	14	169	8	314	20	163	16	144	10	50	22
Set aside	463	6	72	3	96	6	102	10	79	5	1	<1
Varied	115	2	23	1	17	1	28	3	28	2	6	3
Remitted	38	<1	5	<1	9	<1	7	<1	4	<1	0	0
No jurisdiction	56	<1	1	<1	4	<1	2	<1	10	<1	2	<1
Dismissed ^b	286	4	38	2	59	4	14	1	66	4	19	8
Extension of time refused	59	<1	4	<1	38	2	5	<1	5	<1	0	0
<i>Other</i>												
No fee paid	73	1	0	0	0	0	0	0	18	1	2	<1
Other	48	<1	2	<1	3	<1	0	0	29	2	3	1
Total^c	7526	100	2125	100	1596	100	1027	100	1512	100	225	100

a Includes matters dismissed under subsections 42A(1) and (1B) and otherwise by operation of law.

b Includes matters dismissed under subsections 42A(2) (non-appearance), 42A(4) (failure to show reviewable decision), 42A(5) (failure to comply with a direction of the Tribunal) and 42B(1) (frivolous or vexatious) of the AAT Act.

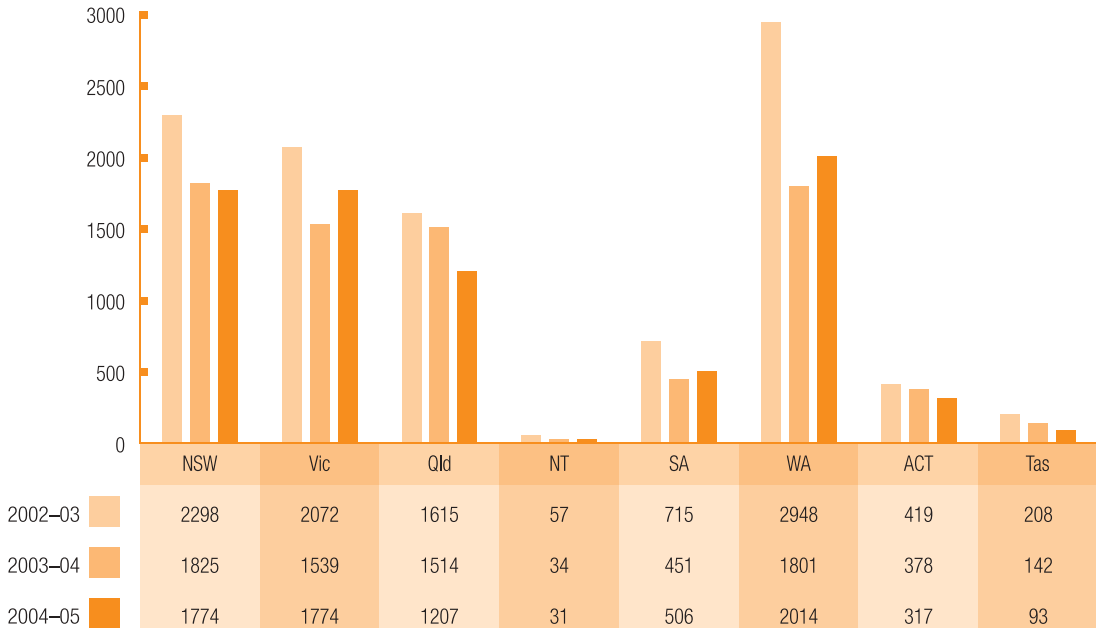
c Percentages do not total 100% due to rounding.

Table 3.6 Status of applications current as at 30 June 2004

Jurisdiction	No.	%
<i>Compensation</i>		
In preparation (mainly awaiting section 37 documents)	201	14
Set down for hearing, conference or mediation	1172	81
Part heard	59	4
Heard and awaiting decision	23	2
<i>Total</i>	1455	100
<i>Social Security</i>		
In preparation (mainly awaiting section 37 documents)	181	26
Set down for hearing, conference or mediation	479	69
Part heard	13	2
Heard and awaiting decision	21	3
<i>Total</i>	694	100
<i>Veterans' Affairs</i>		
In preparation (mainly awaiting section 37 documents)	112	13
Set down for hearing, conference or mediation	692	78
Part heard	32	4
Heard and awaiting decision	51	6
<i>Total</i>	887	100
<i>Taxation Division</i>		
In preparation (mainly awaiting section 37 documents)	2543	66
Set down for hearing, conference or mediation	1262	33
Part heard	10	<1
Heard and awaiting decision	36	1
<i>Total</i>	3851	100
<i>Small Taxation Claims Tribunal</i>	108	100
<i>Other matters</i>	721	100
Total^a	7716	100

a Percentages do not total 100% due to rounding.

■ Chart 3.7 Applications current in each registry



■ Table 3.8 Constitution of tribunals for hearings

Tribunal	2002-03		2003-04		2004-05	
	No.	%	No.	%	No.	%
Judge alone	1	<1	10	<1	10	<1
Judge plus 1	3	<1	3	<1	4	<1
Judge plus 2	138	7	3	<1	2	<1
Deputy President alone	282	15	300	16	249	15
Deputy President plus 1	22	1	37	2	36	2
Deputy President plus 2	14	<1	22	1	4	<1
Senior Member alone	398	21	382	21	505	30
Senior Member plus 1	183	9	172	9	166	10
Senior Member plus 2	58	3	27	1	11	<1
Member alone	828	43	882	48	696	41
Two Members ^b	–	–	–	–	5	<1
Total^a	1927	100	1838	100	1688	100
Total multiple member tribunals	418	22	264	14	228	14

a Percentages do not total 100% due to rounding.

b During the reporting period the restriction on more than one Member constituting the Tribunal for a hearing was removed by the *Administrative Appeals Tribunal Amendment Act 2005*.

Note: This table does not include hearings on the papers.

Table 3.9 Number of conferences, mediations, hearings and interlocutory hearings

Type	2002–03	2003–04	2004–05
Conferences	10450	9422	8942
Conciliation conferences (compensation matters)	1044	779	771
Mediations	53	84	50
Hearings (including hearings on the papers)	2007	1961	1711
Interlocutory hearings ^a	409	444	396

a Includes jurisdiction hearings and hearings on applications for section 35 confidentiality orders, stay orders, joinder orders, extensions of time, dismissal orders and reinstatement.

Table 3.10 shows the total number of appeals from decisions of the Tribunal lodged in the reporting year. The number of appeals under the *Administrative Decisions (Judicial Review) Act 1977* (the ADJR Act) or the *Judiciary Act 1903* (the Judiciary Act) are indicated in parentheses. The remainder are appeals lodged in the Federal Court under section 44 of the AAT Act.

Table 3.10 Appeals from decisions of the Tribunal by jurisdiction

Division/jurisdiction	2002–03	2003–04	2004–05
Compensation	22	33 (1)	28 (3)
Social Security	27	32	11
Veterans' Affairs	50	49 (1)	21
Taxation	10	10 (1)	21
Small Taxation Claims Tribunal	3	1	2
Other	44	44 (11)	55 (8)
Total appeals lodged	167 (11 ^a)	169 (14)	138 (11)

a For the 2002–03 financial year the appeals lodged under the ADJR Act or the Judiciary Act are included as totals only. The appeals have not been divided by individual jurisdiction in previous years.

The total number of appeals from Tribunal decisions determined in 2004–05 and in the two previous years are shown in Table 3.11. The numbers of appeals under the ADJR Act or the Judiciary Act that were finalised is indicated in parentheses.

Table 3.11 Appeals from decisions of the Tribunal—appeals determined

	2002–03	2003–04	2004–05
Total appeals determined	152 (14)	186 (12)	161 (9)

Note: Where a decision of a Federal Magistrate, a single judge of the Federal Court or the Full Court of the Federal Court is appealed and the appeal is determined in the same reporting year, only the ultimate result is counted for the purpose of these statistics.

Table 3.12 Appeals from decisions of the Tribunal—outcomes of appeals determined in 2004–05

Outcome	2004–05
<i>Compensation</i>	
Allowed/Remitted	13
Dismissed	8 (1)
Discontinued	4
Other	–
<i>Subtotal</i>	25 (1)
<i>Social Security</i>	
Allowed/Remitted	2
Dismissed	16
Discontinued	5
Other	–
<i>Subtotal</i>	23
<i>Veterans' Affairs</i>	
Allowed/Remitted	19
Dismissed	17
Discontinued	3
Other	1
<i>Subtotal</i>	40
<i>Taxation</i>	
Allowed/Remitted	3
Dismissed	9
Discontinued	1
Other	–
<i>Subtotal</i>	13
<i>Small Taxation Claims Tribunal</i>	
Allowed/Remitted	–
Dismissed	–
Discontinued	1
Other	–
<i>Subtotal</i>	1
<i>Other</i>	
Allowed/Remitted	15 (1)
Dismissed	35 (4)
Discontinued	9 (3)
Other	–
<i>Subtotal</i>	59 (8)
Total appeals finalised	161 (9)

Table 3.12 shows the outcomes of appeals from decisions of the Tribunal that were determined in 2004–05. The numbers of appeals under the ADJR Act or the Judiciary Act are indicated in parentheses. The remainder are appeals determined under section 44 of the AAT Act in the reporting year.

Note: Where a decision of a Federal Magistrate, a single judge of the Federal Court or the Full Court of the Federal Court is appealed and the appeal is determined in the same reporting year, only the ultimate result is counted for the purpose of these statistics.

Note: Where a single appeal to the Federal Court or Federal Magistrates Court has been treated as both an appeal under section 44 of the AAT Act and an appeal under the Judiciary Act the appeal has been counted once and recorded as an appeal under section 44 of the AAT Act.

Thirteen appeals under section 44 of the AAT Act were determined in the Federal Magistrates Court following transfer of the appeal from the Federal Court pursuant to section 44AA of the AAT Act.

Appendix 4: Tribunal application fees

Section 29A of the AAT Act provides that an application to the Tribunal is not taken to be made unless the prescribed fee is paid. Under regulations 19 and 19AA of the *Administrative Appeals Tribunal Regulations 1976* (the AAT Regulations), an application fee is payable when lodging an application for review of certain decisions and in relation to certain other applications. On 1 July 2004 the standard application fee was increased to \$606. The lower application fee payable when lodging an application for review that will be dealt with in the Small Taxation Claims Tribunal was increased to \$61. These increases were made pursuant to regulation 19A of the AAT Regulations and accorded with movements in the consumer price index.

An application fee is not payable if the decision to be reviewed is one set out in Schedule 3 to the AAT Regulations. Schedule 3 includes decisions relating to social security, veterans' affairs and workers' compensation.

If two or more applications relate to the same applicant and may be conveniently heard before the Tribunal at the same time, the Tribunal may order that only one fee is payable for those applications [regulations 19(5) and 19AA(5)].

Further, a standard or lower application fee is not payable where:

- the person liable to pay the fee is granted legal aid for the matter to which the application relates [regulations 19(6)(a) and 19AA(6)(a)]
- the person liable to pay the fee is:
 - the holder of a health care card, a health benefit card, a pensioner concession card, a seniors health card or other card that certifies entitlement to Commonwealth health concessions
 - an inmate of a prison, in immigration detention or otherwise lawfully detained in a public institution
 - a child under the age of 18 years
 - in receipt of youth allowance or an Austudy payment, or in receipt of benefits under the ABSTUDY scheme [regulations 19(6)(b) and 19AA(6)(b)]
- the Registrar, a District Registrar or a Deputy Registrar, having regard to the income, day-to-day living expenses, liabilities and assets of the person liable to pay the fee, waives the fee on the ground that payment of the fee would cause financial hardship [regulations 19(6)(c) and 19AA(6)(c)].

The number of applications in 2004–05 for which no fee was payable under each of these provisions is set out in Table 4.1.

Table 4.1 Applications where no fee payable

AAT Regulations	Number of applications
19(5) & 19AA(5)	849
19(6)(a) & 19AA(6)(a)	2
19(6)(b) & 19AA(6)(b)	251
19(6)(c) & 19AA(6)(c)	110
Total	1212

In the case of applications for waiver on financial hardship grounds under regulation 19(6)(c), five such applications were refused during the reporting year. One application was refused under regulation 19AA(6)(c).

In 2004–05, application fees paid totalled \$1,093,976.

In relation to fees that were not payable under regulations 19(5), 19(6), 19AA(5) and 19AA(6), the total revenue foregone was \$694,866.

A standard application fee paid under regulation 19(1) is refunded when proceedings end favourably for the applicant. In 2004–05, refunds of application fees amounted to \$370,779. The lower application fee is not refundable in any circumstance.

Regulation 20 provides that an applicant can apply to the Tribunal for review of a decision not to waive payment of a fee. There were no such applications for review lodged in the reporting year.

Appendix 5: Changes to jurisdiction

This appendix lists Acts, Regulations and other statutory instruments (collectively referred to as 'enactments') that altered the Tribunal's jurisdiction in the period 1 July 2004 to 30 June 2005.

The list includes enactments or parts of enactments that were assented to or made prior to 1 July 2004 but which commenced during the reporting period. The list does not include those enactments or parts of enactments that were assented to or made in the reporting period but had not commenced as at 30 June 2005.

The list is divided into three sections: new jurisdiction conferred, existing jurisdiction that has been altered and jurisdiction removed.

New jurisdiction conferred

The enactments listed in the left column have conferred jurisdiction on the Tribunal to review decisions made under the named enactment or under the enactment listed in the right column. In the case of the enactments listed in the right column, the Tribunal did not previously have jurisdiction to review decisions made under that enactment.

Conferring enactment	Affected enactment
<i>Aboriginal and Torres Strait Islander Commission Amendment Act 2005</i>	
<i>Agricultural and Veterinary Chemicals (Administration) Amendment Regulations 2004 (No. 1)</i>	<i>Agricultural and Veterinary Chemicals (Administration) Regulations 1995</i>
<i>Australian Meat and Live-stock Industry (Export Licensing) Amendment Regulations 2004 (No. 1)</i>	<i>Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998</i>
<i>Aviation Transport Security Act 2004</i>	
<i>Aviation Transport Security Regulations 2005</i>	
<i>Export Control (Animals) Order 2004</i>	
<i>Export Control (Hay and Straw) Orders 2005</i>	
<i>Family Assistance (One-off Payments to Families and Carers) Scheme 2004</i>	
<i>Federal Court of Australia Regulations 2004</i>	
<i>Film Licensed Investment Company Act 2005</i>	
<i>Health Insurance (Eligible Collection Centres) Approval Principles 2005</i>	
<i>High Court of Australia (Fees) Regulations 2004</i>	
<i>Military Rehabilitation and Compensation Act 2004</i>	
<i>Motor Vehicle Compensation Scheme (MRCA Instrument No. 2 of 2004)</i>	
<i>Petroleum (Submerged Lands) (Management of Well Operations) Regulations 2004</i>	
<i>Textile, Clothing and Footwear Post-2005 Strategic Investment Program Scheme 2005</i>	
<i>Water Efficiency Labelling and Standards Act 2005</i>	

Existing jurisdiction amended

The enactments listed in the left column have amended the Tribunal's existing jurisdiction to review decisions under the enactment or enactments listed in the right column. The enactments have either extended the Tribunal's jurisdiction or reduced the number of decisions subject to review.

Amending enactment	Affected enactment
<i>Aboriginal and Torres Strait Islander Commission Amendment Act 2005</i>	<i>Aboriginal and Torres Strait Islander Commission Act 1989</i>
<i>Agricultural and Veterinary Chemical Legislation Amendment (Levy and Fees) Act 2005</i>	<i>Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994</i>
<i>Anti-Terrorism Act (No. 3) 2004</i>	<i>Passports Act 1938</i>
<i>Australian Citizenship Amendment Regulations 2005 (No. 1)</i>	<i>Australian Citizenship Regulations 1960</i>
<i>Australian Wine and Brandy Corporation Amendment Regulations 2005 (No. 1)</i>	<i>Australian Wine and Brandy Corporation Regulations 1981</i>
<i>Aviation Transport Security (Consequential Amendments and Transitional Provisions) Act 2004</i>	<i>Air Navigation Act 1920</i>
<i>Bankruptcy and Family Law Legislation Amendment Act 2005</i>	<i>Bankruptcy Act 1966</i>
<i>Civil Aviation Amendment Regulations 2004 (No. 1)</i>	<i>Civil Aviation Regulations 1988</i> <i>Civil Aviation Safety Regulations 1998</i>
<i>Civil Aviation Amendment Regulations 2004 (No. 4)</i>	<i>Civil Aviation Regulations 1988</i> <i>Civil Aviation Safety Regulations 1998</i>
<i>Electoral and Referendum Amendment (Access To Electoral Roll and Other Measures) Act 2004</i>	<i>Commonwealth Electoral Act 1918</i>
<i>Food Standards Australia New Zealand Amendment Regulations 2004 (No.1)</i>	<i>Food Standards Australia New Zealand Regulations 1994</i>
<i>Health Legislation Amendment (Podiatric Surgery and Other Matters) Act 2004</i>	<i>Health Insurance Act 1973</i> <i>National Health Act 1953</i>
<i>Industrial Chemicals (Notification and Assessment) Amendment (Low Regulatory Concern Chemicals) Act 2004</i>	<i>Industrial Chemicals (Notification and Assessment) Act 1989</i>
<i>Marine Orders Part 3 (Order No. 8 of 2004)</i>	<i>Marine Orders Part 3</i>
<i>Marine Orders Part 15 (Order No.11 of 2004)</i>	<i>Marine Orders Part 15</i>
<i>Marine Orders Part 33 (Order No. 3 of 2005)</i>	<i>Marine Orders Part 33</i>
<i>Maritime Transport Security Amendment Act 2005</i>	<i>Maritime Transport and Offshore Facilities Security Act 2003</i>
<i>Migration Legislation Amendment (Migration Agents Integrity Measures) Act 2004</i>	<i>Migration Act 1958</i>
<i>National Health Amendment (Private Health Insurance Levies) Act 2003</i>	<i>National Health Act 1953</i>
<i>Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2004 (No.2)</i>	<i>Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995</i>

Amending enactment	Affected enactment
<i>Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2005 (No. 1)</i>	<i>Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995</i>
<i>Patents Amendment Regulations 2004 (No. 4)</i>	<i>Patents Regulations 1991</i>
<i>Superannuation Safety Amendment Act 2004</i>	<i>Superannuation Industry (Supervision) Act 1993</i>
<i>Tax Laws Amendment (Small Business Measures) Act 2004</i>	<i>A New Tax System (Goods and Services Tax) Act 1999</i>
<i>Tax Laws Amendment (2004 Measures No. 6) Act 2005</i>	<i>Income Tax Assessment Act 1997</i>
<i>US Free Trade Agreement Implementation Act 2004</i>	<i>Agricultural and Veterinary Chemicals Code Act 1994</i> <i>Australian Wine and Brandy Corporation Act 1980</i>

Jurisdiction removed

The enactments listed in the left column have repealed an enactment which provided for merits review by the Tribunal or removed the Tribunal's jurisdiction under an enactment which continues to exist. The affected enactment is noted in the right column.

Repealing enactment	Affected enactment
<i>Australian Meat and Live-stock Industry Amendment and Repeal Order 2004</i>	<i>Australian Meat and Live-stock Industry (Export of Cattle) Order 2003</i> <i>Australian Meat and Live-stock Industry (Export of Live Sheep and Goats to the Middle East) Order 2003</i> <i>Australian Meat and Live-stock Industry (Export of Pregnant Cattle) Order 2002</i>
<i>Export Control (Animals) Order 2004</i>	<i>Export Control (Animals) Orders</i>
<i>Federal Court of Australia Regulations 2004</i>	<i>Federal Court of Australia Regulations 1978</i>
<i>Film Licensed Investment Company (Consequential Provisions) Act 2005</i>	<i>Film Licensed Investment Company Act 1998</i>
<i>Health Insurance (Eligible Collection Centres) Approval Principles 2005</i>	<i>Health Insurance (Eligible Collection Centres) Approval Principles 2004</i>
<i>High Court of Australia (Fees) Regulations 2004</i>	<i>High Court of Australia (Fees) Regulations 1991</i>

Appendix 6: Decisions of interest

The following summaries of Tribunal decisions provide an idea of the types of issues raised in the Tribunal's major jurisdictions and highlight some of the more important or interesting decisions delivered during the reporting year.

Civil Aviation

Re Mclver Aviation Pty Ltd and Civil Aviation Safety Authority

[2005] AATA 391, 3 May 2005—
Deputy President GD Walker

This case concerned an application for review by Mclver Aviation Pty Limited (Mclver) to review a Civil Aviation Safety Authority (CASA) decision revoking Mclver's Air Operator's Certificate (AOC). The AOC allowed Mclver to conduct aerial advertising by banner towing from its single turbine and piston engine helicopters. CASA determined that Mclver could only operate its helicopter in flight banner towing services in accordance with the directions specified in the schedule to CASA's decision. This decision was made by CASA after reassessing Mclver's banner towing operations and determining that they did not comply with Civil Aviation Order (CAO) 29.6 which provided, among other things, that operations could only be conducted if there was prior local government and police approval. Mclver submitted that CAO 29.6 only referred to sling load operations and not banner towing.

In particular, the Tribunal was required to consider the method of towing used by the applicant, the Helicopter Overland Banner System (HOBS), a system designed with four special safety features, namely that the banner was attached by a dual attachment system to both the aircraft's cargo hook and a special cable that passes through the cabin of the aircraft; that all the components were

made of lightweight material; the weight to hold down the banner was a sack filled with sand which could be dispersed if necessary; and the system employs a parachute which slows the descent of the banner and causes it to fold around itself reducing the landing area of the banner.

Mclver has been conducting its business, out of Bankstown Airport, for approximately four years as the holder of an AOC, the last AOC being issued to Mclver on 3 October 2002. That certificate, issued pursuant to regulation 149(1) of the *Civil Aviation Regulations 1988*, permitted Mclver to conduct banner towing operations in accordance with CAO 29.6 Helicopter External Sling Load Operations, departing from Kingsford Smith Airport via the eastern shores of Botany Bay over water not below 1000 feet above mean sea level. Other operations outside the Sydney Basin Area had to be discussed with CASA in advance.

Evidence was given, including the presentation of a video, of how the HOBS system was developed and tested, including testing in the United States, where the system has successfully gained accreditation with the Federal Aviation Administration. No safety-related incidents or concerns have arisen in the United States since its introduction. Since Mclver commenced using the HOBS system in 2001, no incidents or accidents have occurred. All Mclver's pilots hold the appropriate endorsements to use the system and are instructed personally in its use by the designer. The evidence of Mclver's chief pilot, who described how the banner is connected to the helicopter by the HOBS system, including being secured by a "belly band" which passes through the helicopter itself, was that it was not a sling load operation. The banner is connected to the aircraft on the ground and is not disconnected until the aircraft returns to its departure point, unlike, for example, where the statues on the Sydney Centrepoint Tower were slung into place and then later removed.

CASA argued that the HOBS method of operations was both a sling load and a towing operation. There was an attachment which was the cargo hook, there was an object (the banner), which was suspended from the hook, there was a pick up of the banner by the helicopter and carriage and release. It was irrelevant, CASA argued, that the banner was not released until after landing.

Having considered the evidence, the Tribunal found that the HOBS operation involved virtually no risk of injury or damage if the banner were released from the helicopter and that CAO 29.6 did not apply to the HOBS operations of its own force, that order being appropriate to the special risks involved in sling load operations but not those of banner towing. The Tribunal found that while it would be reasonable to impose conditions on banner towing related to approval of aircraft type, pilot qualifications, carriage of persons and the conduct of operations, as CAO 29.6 does, such conditions should be framed in the context of towing operations and bearing in mind the safety improvements made possible through the HOBS system.

Another condition required that operations over a populous area and within 5 km of a fixed location (such as a sports stadium) be limited to one continuous towing period no longer than 30 minutes on any given day. In so far as that limitation was based on a desire to limit competition among advertisers, it did not accord with the economic competition principles set out in the *Trade Practices Act 1974* (Cth). It was not based on safety grounds.

The Tribunal considered that the other conditions imposed were reasonable in the circumstances and should be affirmed.

The Tribunal therefore remitted to CASA for reconsideration conditions 1 and 11 of the directions specified in Schedule 1 to CASA's decision, in accordance with the recommendations of the Tribunal.

Compensation

Re Perry and Australian Postal Corporation

[2004] AATA 873, 20 August 2004—

Ms M Carstairs, Member

This case concerned a preliminary issue raised by the Australian Postal Corporation, namely that Ms Perry was prevented from seeking compensation by virtue of the operation of section 48 of the *Safety Rehabilitation and Compensation Act 1988* (the SRC Act).

Section 48 of the SRC Act disallows a claim for compensation where damages have been received for the same injury. Section 48(1) of the Act applies where an employee recovers damages in respect of an injury to the employee or damage in respect of the loss of, or damage to, property used by the employee, being an injury, loss or damage in respect of which compensation is payable.

The Australian Postal Corporation asserted that Ms Perry was statutorily disbarred from making a claim under the SRC Act due to a prior settlement she received when she took a complaint to the Human Rights and Equal Opportunity Commission (HREOC).

Ms Perry had a foot condition, which was not work-related, for which she had undergone a number of operations. She took several months leave from work in 2002 for one of these operations. When Ms Perry returned to work she was placed on restricted duties, and was allocated to a work roster that did not attract penalty rates. Her usual shift attracted penalty rates. Ms Perry, assisted by her union representatives, commenced negotiations with Australia Post on the basis that other workers on restricted duties were not prevented from working penalty shifts. An internal investigation at Australia Post recommended that Ms Perry be given safety shoes and also outlined proposed future access to penalty-rated shifts.

In late 2002 Ms Perry lodged her compensation claim which was for work-related stress. Her claim

was rejected. Early in 2003 she lodged a separate complaint with HREOC.

The HREOC matter was resolved by conciliation and resulted in a small monetary settlement in favour of Ms Perry. The terms were that the settlement was a full and final settlement, and notwithstanding the fact that liability was denied, the settlement discharged and indemnified the parties from any further actions, claims, demands or proceedings in respect of the matter.

At the preliminary hearing in the compensation matter Australia Post submitted that the settlement in the HREOC matter excluded Ms Perry's claim for compensation under the SRC Act. The Tribunal agreed that there was much common ground between Ms Perry's HREOC complaint and her compensation claim, but concluded that when the two claims were examined in the context of the written material and evidence about the settlement of the HREOC matter, they were not identical claims.

For the HREOC claim Ms Perry had to satisfy section 5 of the *Disability Discrimination Act 1992* (Cth), which covers circumstances where a person is discriminated against, or treated less favourably on the basis of a disability. The HREOC complaint was concerned with the perceived discriminatory treatment Ms Perry felt she received with respect to her foot disability. The compensation claim related to stress arising from her perceived treatment in the workplace. The two claims were also distinguishable in the remedies sought. In the HREOC complaint Ms Perry sought an apology, an end to the perceived discriminatory conduct, and to be provided with a second pair of safety shoes.

The Tribunal concluded that the HREOC claim was not a claim for stress, though the compensation claim was. The Tribunal therefore determined that section 48 of the SRC Act was not satisfied as the settlement was 'not in respect of an injury... being an injury... in respect of which compensation is payable under this Act'.

Having so decided, the Tribunal did not need to determine whether Ms Perry had received damages at all, as is also required by subsection 48(2) of the SRC Act. The Tribunal took into account the evidence of the Australia Post representative at the HREOC negotiations that the employer sought, in settling the discrimination complaint, to ensure the ongoing working relationship between the parties rather than determine either party's legal rights. The Tribunal commented that despite the SRC Act having a wide definition of damages, it was likely that what was contemplated was a payment in discharge of a legal liability rather than a payment for hurt feelings or some other kind of making-good.

The Tribunal concluded that Ms Perry's claim for compensation was not precluded by section 48 of the SRC Act by the settlement of her HREOC complaint.

Re Taylor and Military Rehabilitation and Compensation Commission

[2005] AATA 207, 11 March 2005—
Deputy President RJ Groom

This case considered whether the treatment of an Australian Army recruit during training contributed to the condition of post-traumatic stress disorder (PTSD) and whether PTSD was an 'injury' within the meaning of subsection 4(1) of the *Safety, Rehabilitation and Compensation Act 1988* (the SRC Act).

Mr Taylor was 18 years old when he enlisted as a recruit in the Australian Army. After enlisting he travelled to the Australian Army Base at Kapooka for 13 weeks of initial training. Mr Taylor alleged that during that training he was subjected to assaults, threats, abuse and intimidation and as a result now suffers from PTSD and is unable to work.

Mr Taylor was discharged at his own request less than 11 months after enlisting in the Army. Some time after leaving the army, Mr Taylor's health and behaviour began to deteriorate. His parents were concerned and arranged for him to see the Vietnam Veterans' Counselling

Service (VVCS). Mr Taylor's first appointment with a counsellor at VVCS was in October 1995 and he has attended a psychiatrist and two psychologists on regular occasions since that time. Each of Mr Taylor's treating medical experts was of the opinion that he was suffering PTSD as a result of his treatment during his initial army training at Kapooka. Mr Taylor continued to have serious health problems and to exhibit abnormal behaviour and at the time of the hearing before the Tribunal he was unemployed and receiving a disability pension.

The main issues in this case were whether the incidents that Mr Taylor alleged actually occurred, whether Mr Taylor was suffering from PTSD and, if he was suffering from PTSD, whether it was caused by the alleged incidents or otherwise contributed to in a material degree by the applicant's employment in the army.

In his evidence, Mr Taylor relied on four specific incidents that occurred during training. The first incident was the firing of rifles in the barracks to wake recruits. Mr Taylor described how he was awoken without warning by three or four semi-automatic rifles being fired simultaneously in his barracks. In the darkness he could see the flashes of light from the muzzles and he described the sound as deafening. Mr Taylor stated that when the lights eventually came on he could see that the air was filled with heavy smoke and he described the smell of cordite as very strong. He stated that he was still in bed in a state of shock when he was dragged from his bed and into the hallway by his neck.

The second incident occurred at night when a swagger stick was pushed up Mr Taylor's nose. Mr Taylor was awoken by a corporal, who inserted the stick into Mr Taylor's nose making him lift his head. The corporal then shone a torch into his face so that he was unable to see and asked Mr Taylor if he was awake. When Mr Taylor replied that he was awake, the corporal screamed at him. Mr Taylor stated that the corporal's response terrified him.

The third incident was being terrorised and threatened by a corporal after Mr Taylor and other recruits had donated blood. On the return journey from the Red Cross the recruits were forbidden to speak and after they arrived back at Kapooka they were marched into a room. The corporal then slammed the door and began screaming at them. The corporal left the room and returned with a swagger stick and jabbed Mr Taylor in the chest with it and interrogated him, demanding to know which recruit had been talking to the nurse. Another recruit put his hand up to indicate that it was him and the corporal began screaming at him. The corporal said 'I will come and kill you all' and Mr Taylor stated that he was so terrified that he went to bed that night with his bayonet as he feared for his life.

The final incident involved Mr Taylor being assaulted by an instructor at the swimming pool at Kapooka. Mr Taylor stated that during swimming instruction he noticed another recruit in difficulties. As he thought the recruit was drowning, Mr Taylor went over to assist him. Mr Taylor stated that the instructing corporal was livid at this and called him over to the side of the pool, whereupon he struck Mr Taylor in the face with a closed fist.

The Tribunal found Mr Taylor to be a truthful witness and, combined with the evidence of other witnesses, the Tribunal found that each of the incidents had occurred largely as Mr Taylor had described. Additionally, the Tribunal found that Mr Taylor had been shocked and terrified by the various incidents, which it described as 'extreme stressors'. Indeed, the Tribunal was satisfied on the evidence that recruits undertaking training at Kapooka at the relevant time were generally subjected to an unacceptable level of repeated verbal and physical intimidation and abuse.

The Tribunal then considered the medical evidence in relation to PTSD. Medical reports and oral evidence were provided by two psychiatrists, as well as a clinical psychologist and a consultant

psychologist. A medical report by a consultant psychiatrist was also tendered in evidence, as well as several documents relevant to Mr Taylor's medical condition, including notes of interviews by the WVCS.

A psychiatrist, initially engaged by the Department of Veterans' Affairs, provided two reports. He saw Mr Taylor on only one occasion and initially concluded that Mr Taylor suffered PTSD as a consequence of his treatment in the army. This initial diagnosis was consistent with Mr Taylor's treating psychiatrist who had had 21 consultations with Mr Taylor, as well as the two psychologists who had the opportunity to interview and observe Mr Taylor on numerous occasions over an extended period of time. However, in his second report, the psychiatrist engaged by the Department withdrew his earlier diagnosis on the basis that there was doubt as to whether the alleged incidents occurred and that symptomatology had been reported that suggested another type of clinical condition (such as incipient psychotic illness or severe personality disorder). The Tribunal was therefore required to consider the merits of the conflicting expert opinions.

After detailed consideration of the evidence of each medical expert, the Tribunal rejected the reasons given by the psychiatrist in his second report when withdrawing his earlier diagnosis. The Tribunal rejected the psychiatrist's first reason for withdrawing his initial opinion, as it found that all four incidents occurred substantially as alleged by Mr Taylor. The Tribunal also rejected the psychiatrist's second reason, as it found that there was no basis to suggest that Mr Taylor had a psychosis or serious personality disorder and that he was not suffering from PTSD. The overwhelming preponderance of expert medical evidence in this case pointed to Mr Taylor suffering PTSD.

The Tribunal therefore found that Mr Taylor was suffering from PTSD. Furthermore, it was satisfied that Mr Taylor's employment in the army

contributed to the onset of PTSD in a material degree. The Tribunal also found that there was evidence that Mr Taylor was no longer capable of engaging in the same level of work he was capable of immediately prior to the onset of the disease and was satisfied that there was an impairment that was likely to continue indefinitely in accordance with the definition of 'permanent' in subsection 4(1) of the SRC Act.

Pesticides

Re Questa Pool Products Pty Limited and Australian Pesticides and Veterinary Medicines Authority

[2004] AATA 1390, 23 December 2004—
Justice GK Downes, President
Professor GAR Johnston, AM, Member

In this case the Tribunal was required to decide on what terms the suppliers of a system and products for the disinfection of swimming pools and spas should be permitted to market their products.

Over ten years ago, Katali Pty Ltd (trading as Aquamatics) began marketing a pool and spa disinfectant system using copper and silver ions called the Aquabrite system. The copper and silver ions were delivered to the water by electrolysis using an electrical device, which Aquamatics called an ionic water purifier, which powers a sacrificial electrode assembly coated with copper and silver. A proprietary blend of peroxygen oxidisers, which was called Aquabrite, was added by hand. From this time, Questa Pool Products Pty Ltd marketed the same system under licence from Aquamatics using the trade name PoolFresh. At the time of the hearing before the Tribunal, Questa had recently sold its business to Monarch Pool Systems Pty Ltd which continued to market PoolFresh. Both systems are also exported overseas. Collectively, both systems have between 10,000 and 12,000 domestic pool users both locally and overseas, as well as approximately 150,000 children and adults who use public swimming pools that employ the Aquabrite system.

The electrodes and the oxidiser used in the system are considered to be agricultural chemical products under the Agriculture and Veterinary Chemicals Code (Cth). The Code is administered by the Australian Pesticides and Veterinary Medicines Authority, which regulates the sale of such products. The Authority is authorised to approve active constituents of existing chemical products, to register chemical products and to approve container labels. The Authority is also authorised to require suppliers of chemical products to cease supplying chemical products and to take other action, including recalling products. The Code also provides that permits may be granted authorising activity with respect to chemical products that would otherwise be prohibited by the Code. Permits may be either unconditional or subject to conditions and they may be limited to operate only for a certain period of time.

The Authority was aware of the disinfectant products from as early as December 1998 and it had sufficient information to decide whether registration was required. However, it was not until April 2003 that the Authority wrote to Aquamatics requiring it to immediately cease all promotion and sale of Aquabrite. Aquamatics responded that its product was not registrable because it was not a pesticide and in July 2003 Aquamatics made application for registration, without prejudice to its claim that registration was not required. That application for registration has never been finally dealt with.

In March 2004, the Authority gave Aquamatics notice of its proposal to require prompt recall of Aquabrite and invited comment. A similar letter was also sent to Questa. Recall notices requiring immediate cessation of sale and recovery of all stock were subsequently issued to both Aquamatics and Questa. Questa and Aquamatics then applied to the Tribunal for review of the recall notices and in April 2004 the Tribunal granted a conditional stay of proceedings.

On the hearing of the substantive application, the Tribunal was required to decide whether chlorine should be required to be used in connection with the system and in what quantities. Alternatively, it needed to decide if a warning as to the desirability of using chlorine should be required. Finally, the Tribunal needed to decide if the permit should be limited in time.

In July 2004 the Authority issued a *Guide for Demonstrating Efficacy of Pool and Spa Sanitisers*, partly as a means of informing Aquamatics what it would need to show before the Authority would register its product. The Guide provided for both laboratory and field testing and Aquamatics attempted to satisfactorily complete the laboratory testing, or at least part of it, prior to the hearing. However, due to various circumstances, the matter proceeded before the Tribunal on such material as was available outside the attempts to comply with the Authority's guidelines. The evidence of efficacy comprised a paper entitled 'The Aquabrite System' which included mortality tests on the efficacy of the system with *E. coli* and *Pseudomonas aeruginosa sp.*, field testing of the Aquabrite system at a public swimming pool and publications in the scientific literature.

The applicants argued that as the products had been used for a significant time with no known health incidents, the products should be permitted to be sold without special conditions at least until their efficacy has been satisfactorily determined.

The Tribunal found that the material before it did not establish whether or not the system was sufficiently efficacious for use alone in swimming pools and spas. At most there was limited evidence of efficacy which is consistent with some of the scientific literature. However, the evidence did not show that the system was not satisfactory. The Tribunal found that the evidence was not conclusive one way or the other. Additionally, although chlorine is the benchmark product, it is not without its problems and the Tribunal felt that

it was highly desirable for any possible alternative product with sufficient efficacy to be explored.

The Tribunal also noted that enforcement of the recall notices requiring all products to be recovered and all sales and marketing to cease would involve substantial cost and would have a significant impact on the businesses of Aquamatics and Monarch. Furthermore, it would also have an impact on users of the products who incurred cost in acquiring the system and installing it.

The Tribunal therefore held that the decisions to issue the recall notices should be set aside. Additionally, due to the insufficient scientific evidence relating to the efficacy or otherwise of the products the Tribunal found that there should be a limitation on the length of the permit to enable the applicants to carry out sufficient testing to achieve registration. The Tribunal therefore held that the permit should extend to 31 October 2005. Finally, given the existing history together with the limited permit, the Tribunal found that the warning does not need to be mandatory nor recommend use of a full chlorine dose. It therefore held that the products should be sold with a warning that chlorine should be used as a supplement without stipulating any precise quantity.

Practice and Procedure

Re Skase and Minister for Immigration and Multicultural and Indigenous Affairs

[2005] AATA 200, 10 March 2005—
Deputy President SA Forgie

This case concerned whether non-parties may have access to a Tribunal file prior to a substantive hearing.

Mrs Jo-Anne Skase applied for review of a decision of the Minister for Immigration and Multicultural and Indigenous Affairs (the Minister) to refuse to register her declaration of desire to resume Australian citizenship. Although Mrs Skase's application had yet to be heard, the Herald & Weekly Times Pty Ltd (HWT) asked to

look at the documents on the Tribunal's file relating to her application. It did so on the bases that there had been enormous public interest in the Skase family, the proceedings were not of a highly sensitive nature and would not be affected if HWT were to look at the file and that the media's right to report on the proceedings was supported by the principle of open justice.

The Tribunal's Registrar refused HWT's initial request on the basis that releasing the documents would breach the Information Privacy Principles (the IPP) set out by section 14 of the *Privacy Act 1988* (Cth). In particular, release would breach IPP 11 which prohibits the release of personal information about an individual unless the individual concerned has consented or the disclosure is required or authorised by law. The Registrar's decision was in line with the Tribunal's *Registry Procedure Manual*. HWT asked that its request be decided by the Tribunal hearing Mrs Skase's application.

The Tribunal decided that HWT was not permitted to have access to the Tribunal's file before the hearing of the application for review of the Minister's decision.

The Tribunal held that it is bound by the IPPs as it is an 'agency' within the meaning of the Privacy Act. Although no personal information was identified by HWT, the Tribunal found that IPP 11 applies and that some of the documents on the file appeared to contain personal information. IPP 11 provided that a record-keeper who has possession or control of a record containing personal information shall not disclose it other than to the individual concerned. There are exceptions. They include situations in which the individual is reasonably likely to have been aware that information of that kind is usually passed to the person, body or agency to whom it is disclosed (IPP 11, cl. (a)). They also include situations in which disclosure is required or authorised by or under law.

Subject to the provisions of section 35 of the *Administrative Appeals Tribunal Act 1975* (the

AAT Act), the principle underlying the Tribunal's hearings of proceedings is that they shall be held in public. This is consistent with the requirement in subsection 35(3) of the AAT Act that, in making a confidentiality order under subsection 35(2), the Tribunal takes as the basis of its consideration 'the principle that it is desirable that hearings of proceedings before the Tribunal should be held in public and that evidence given before the Tribunal should be made available to the public and the parties...'.¹

The Tribunal rejected the submission that, unless an order has been made under subsection 35(2), the documents lodged with the Tribunal before a hearing are necessarily in the public domain. Once the hearing has been held, the requirement in subsection 35(1) that the hearing be held in public carries with it the implication that, unless an order has been made under subsection 35(2), the public has the right to have access to all of the documents that have been lodged before the hearing of the proceeding as well as the evidence that was given at that hearing and any documents that were received in evidence at that hearing. It makes no difference whether a party has relied on the material at the hearing. The word 'proceeding' in subsection 35(3) encompasses not only the substantive application, but also any incidental applications made in connection with the application for review.

The Tribunal referred to the principles developed by the courts in deciding whether to allow access to information and court files. Any differences between the courts' approach to access to documents where there has been a hearing and the Tribunal's follow from the differences between section 35, to which the Tribunal is subject, and the common law and Rules of Court, to which different courts may be subject. Subsection 35(1) is a law that requires or authorises disclosure within the meaning of clause 1(d) of IPP 11 but only when there is a hearing of a proceeding and no order has been made under subsection 35(2).

A law such as subsection 35(2) giving the power to restrict disclosure of information is not.

The Tribunal did not consider it reasonably likely that Mrs Skase would have been aware that information on the file is usually passed to HWT, and therefore the exclusion in clause 1(a) of IPP 11 did not apply.

The principles considered by the Tribunal in relation to documents lodged with the Tribunal and given in evidence do not extend to documents produced in accordance with a summons. The AAT treats them separately from documents lodged in the Tribunal and the parties require leave to inspect them.

Should it be incorrect in limiting the operation of section 35 to situations where the hearing had been completed, the Tribunal found that it would have made an order under subsection 35(2) prohibiting disclosure. In making that order, the Tribunal would have taken into account the importance of public scrutiny of the Tribunal's proceedings and the public interest in ensuring that the Minister's decision is properly reviewed both procedurally and substantially. On balance, considerations that require the parties to have a reasonable opportunity to prepare and present their cases without premature public analysis outweighed past public interest and continuing media interest in Mrs Skase's affairs.

Privacy

Re Rummery and Federal Privacy Commissioner

[2004] AATA 1221, 22 November 2004—

Justice GK Downes, President

Senior Member JW Constance

Dr MD Miller, Member

In this case the Tribunal considered whether compensation should be awarded for a breach of privacy.

Mr Rummery was a policy officer and inspector with the Australian Capital Territory Department of Justice and Community Safety (the Department).

In December 1998 he prepared a brief for his director which dealt with problems associated with under-age drinking and young people attending licensed premises in Canberra for under-age discos.

Mr Rummery felt that the issues raised in the brief 'were just too dangerous to ignore', but during December Mr Rummery did not receive a response to his brief. He initially contacted the Departmental liaison officer in the office of the Attorney-General and asked for advice, however he was disciplined by his director for this action. By reason of his belief in the importance of the issues raised in the brief and the lack of response from his Department, Mr Rummery made a public interest disclosure to the ACT Ombudsman under the *Public Interest Disclosure Act 1994* (ACT) alleging that the Department had failed to enforce provisions of the *Liquor Act 1975* (ACT).

In June 1999, an officer of the Ombudsman's Office wrote to the Department in relation to the public interest disclosure and seeking its comments in order for the Ombudsman to decide what action, if any, to take. The officer did not identify Mr Rummery. In response to the letter, a senior departmental officer telephoned the officer and in the course of their conversation advised the officer that he assumed the public interest disclosure was made by Mr Rummery and he proceeded to disclose a range of personal information about Mr Rummery.

Mr Rummery subsequently learned that there had been a telephone conversation between the senior departmental officer and an officer of the Ombudsman's Office which related to him and he obtained a copy of the officer's file note of the conversation under the *Freedom of Information Act 1982* (Cth). Mr Rummery stated that he was very distressed at the content of the file note. He felt that the senior departmental officer's disclosures indicated that that officer did not accept that he was acting out of genuine concern for young people and that he was devaluing his work. Mr

Rummery also felt that the officer was trying to cast aspersions on him. As a result he suffered injury to his feelings and humiliation.

After learning of the disclosures, Mr Rummery lodged a complaint with the Federal Privacy Commissioner. The investigation took almost four years, at least partly as a result of the detailed submissions of the Department which submitted that Mr Rummery's public interest disclosure was frivolous and vexatious.

The Privacy Commissioner found that it was not relevant to the question of whether Mr Rummery's disclosure was frivolous and vexatious for the Department to disclose detailed information about Mr Rummery's background and his working relationship with the Department. Accordingly, the disclosure of the personal information was not authorised by Information Privacy Principle 11.1(d). The Commissioner found Mr Rummery's complaint that his privacy had been interfered with substantiated and declared that the Department had engaged in conduct constituting interference with the privacy of Mr Rummery.

The Commissioner, however, also found that the disclosures were made to two staff at the Ombudsman's Office and that disclosures did not occur outside the confines of the investigating team and were not known more widely in that office or in the community. For those reasons, the Commissioner decided not to make a declaration as to compensation, although the Commissioner did declare that the Department should apologise to Mr Rummery for disclosing his personal information.

Section 52 of the *Privacy Act 1988* (Cth) provides that after investigating a complaint, the Commissioner may find the complaint substantiated and may make a declaration that the complainant is entitled to an amount of compensation for any loss or damage suffered by reason of the act or practice of the subject of the complaint. The loss or damage includes injury to the complainant's feelings or humiliation suffered

by the complainant. However, the Act does not provide further guidance as to when such a determination should be made, nor does it provide any further guidance as to how the amount of compensation is to be determined.

Section 61 of the Privacy Act provides that application may be made to the Tribunal for review of a decision refusing a declaration that a complainant is entitled to compensation. The issues for the Tribunal to determine in this case were whether there should be a declaration that Mr Rummery was entitled to compensation for the breach of his privacy and, if so, what the amount of compensation should be.

As there were no authorities relating to the Privacy Act that set out the principles in determining these issues, the Tribunal sought assistance from decisions which interpreted similar provisions in other legislation. Section 81 of the *Sex Discrimination Act 1984* (Cth), when first enacted, contained very similar provisions to those in section 52 of the Privacy Act. In *Hall v A & A Sheiban Pty Ltd* (1989) 20 FCR 217, the Federal Court gave detailed consideration to the determination and assessment of compensation under section 81 of the Sex Discrimination Act and the Tribunal applied those principles in this case. The Tribunal adopted the view of French J, that once loss is proved there would need to be good reason shown as to why compensation for that loss should not be awarded. In this case, the Tribunal found that no such reason appears.

The Tribunal therefore found that Mr Rummery was entitled to an amount by way of compensation for the loss or damage suffered by him by reason of the breach of his privacy by the Department. In this case, the damage suffered was the injury to Mr Rummery's feelings and the humiliation that he suffered.

The Tribunal then considered the amount of compensation payable. Mr Rummery had claimed compensation of \$200,000 on the basis that the breach of privacy caused him to cease his

employment with the Department. There was no evidence before the Tribunal to enable it to make such a finding and it did not assess compensation on that basis.

The Tribunal noted that the Federal Court in *Hall v Sheiban* referred to the difficulty in assessing compensation, but stated that to ignore items of damage such as injury to feelings, distress and humiliation simply because of the difficulty in demonstrating the correctness of a particular figure would be to visit an injustice on the complainant. The Court adopted a statement of principle from an English racial discrimination case, *Alexander v Home Office* [1988] 1 WLR 968, that such awards should not be minimal, because this would trivialise or diminish respect for the public policy to which the Act gives effect. However, because it is impossible to assess the monetary value of injured feelings, awards should be restrained. The Federal Court also expressed the view that normally it would be appropriate to measure damages to be awarded under statutory provisions in accordance with the general principles of tort law, particularly if the rules applicable in tort did not conflict with the terms of the statute. The Tribunal found that there was no conflict between those principles and the provisions of section 52 of the Privacy Act and it assessed compensation in accordance with those principles.

The Tribunal then considered whether the award of compensation in this case should include a component of aggravated damages. Given subsection 52(1A) of the Privacy Act and having regard to the evidence before it, the Tribunal found that it was not appropriate to consider an award of aggravated damages. Although it disregarded this in assessing damages, the Tribunal noted the Department's persistence in maintaining that Mr Rummery's conduct was not bona fide and that the Department incurred substantial expense in maintaining that position before the Privacy Commissioner.

The Tribunal then considered how ‘a specified amount’ as required by paragraph 52(1)(iii) of the Privacy Act should be determined. The Tribunal considered awards of compensation under a number of statutory provisions, including awards of the Privacy Commissioner, most of which ranged from a few thousand dollars to approximately \$20,000. It noted that the Department led evidence that the Privacy Commissioner had only made two awards of compensation in the sums of \$1,000 and \$2,500.

The Tribunal found that the breach of privacy was serious in Mr Rummery’s eyes and it agreed that it was a serious breach. Taking all relevant factors into account, the Tribunal found that a restrained, but not minimal, award of compensation was \$8,000.

Veterans’ Affairs

Re Jebb and Repatriation Commission

[2005] AATA 470, 24 May 2005—

Deputy President DG Jarvis

This was an interlocutory decision concerning whether the Repatriation Commission was estopped from contending that the veteran’s condition of diabetes mellitus was not war-caused. It deals with the issue of estoppel, equitable estoppel and *Anshun* estoppel in the Tribunal.

Mr Jebb was a veteran of the Vietnam war. In 1999 the Repatriation Commission accepted a claim by Mr Jebb that his condition of diabetes mellitus was war-caused, but rejected his claim that his ischaemic heart disease (IHD) was war-caused. In 2002, Mr Jebb lodged a further claim for pension in respect of IHD. The Commission rejected his claim and its decision was confirmed by the Veterans’ Review Board (VRB). Mr Jebb then applied to the AAT for review of the rejection of his claim.

Statements of Principles (SoPs) made pursuant to the *Veterans’ Entitlements Act 1988* (the VEA Act) list various factors which must as a minimum

exist in order to raise a reasonable hypothesis connecting a medical condition suffered by a veteran with his or her war service. One of the factors in the SoP in respect of IHD, on which Mr Jebb relied in support of his 2002 claim, was that the veteran was suffering from diabetes mellitus before the clinical onset of IHD. After Mr Jebb’s 2002 claim had been rejected by the Commission and by the VRB, the Commission raised for the first time a contention that Mr Jebb’s diabetes mellitus was not caused by his war service on the grounds that he had not been involved in handling certain relevant herbicides.

Mr Jebb contended that the Commission was estopped from raising that contention because of its acceptance in 1999 that his diabetes mellitus was war-caused. The Commission disputed that it was stopped.

The Tribunal considered this question as a preliminary issue. It decided that in considering Mr Jebb’s 2002 claim for IHD the Commission was not estopped by its earlier decision from determining whether his diabetes mellitus was war-caused.

The Tribunal considered the possible relevance of various kinds of estoppel.

It first addressed the doctrine of equitable estoppel, and decided that that doctrine did not apply. The Tribunal pointed out that it is a necessary element of that doctrine that there should be unconscionable conduct on the part of the representor entailing actual or constructive knowledge on the part of the representor that the representee would act, or abstain from acting, in reliance on an assumption or expectation induced by the representor. However, on the matters asserted by Mr Jebb, the Commission had not been guilty of any such unconscionable conduct.

The Tribunal further pointed out that the doctrine of estoppel could not permit action by a public official that was inconsistent with his or her statutory

obligations. The Tribunal considered that under the VEA Act, the determination of Mr Jebb's 2002 claim for IHD entailed considering the SoPs in force at the relevant time in respect of both IHD and diabetes mellitus. Even though an earlier claim for diabetes mellitus had been accepted by the Commission, the Act provided for the making of new SoPs in respect of medical conditions that would take into account later medical or scientific knowledge. If a new SoP were to be made in respect of diabetes mellitus, the issue of whether that condition was war-caused would have to be determined by reference to that new SoP, and the SoP in force at the time of the earlier decision might not necessarily apply.

The Tribunal said that in cases where the SoP extant at the time of an earlier decision was not materially different from the corresponding factor in a later SoP, the decision-maker determining a later claim based on the same condition would generally accept an earlier determination that the claimed condition was war-caused. However, the decision-maker would still be obliged to consider that issue; and if the decision-maker had become aware of relevant new information, he or she would not be estopped from considering it, and in appropriate circumstances, could make a different determination from the earlier determination.

The Tribunal further noted that under a different section of the VEA Act, the Commission was entitled, after taking into account any relevant new matter which was not before the Commission when its original decision to grant a pension was made, to review its original decision. This discretion existed irrespective of whether any other claim for a different but related condition had been made. Mr Jebb should not therefore have assumed that the acceptance in 1999 that his diabetes mellitus was war-caused would never be called into question. The Commission could not be estopped from exercising its statutory discretion to review Mr Jebb's pension for diabetes mellitus.

The Tribunal also referred to *Anshun* estoppel, whereby a party who has behaved unreasonably in not raising a matter in earlier proceedings is not permitted to raise that matter in later proceedings, except in certain special circumstances. The Tribunal decided that the fact that a party had not raised an issue before the Commission or the VRB would not give rise to *Anshun* estoppel. This was because reviews by the AAT involve a re-hearing of the relevant application, and the Tribunal determines applications on the material before it, and not on the material that was before the Commission or the VRB. Further, because of the procedures adopted by the Tribunal, it is able to investigate issues more thoroughly than can generally occur when the original decision was made, and *Anshun* estoppel would be inappropriate to restrain the Tribunal from carrying out its function of arriving at the correct or preferable decision.

The Tribunal also considered the doctrine of issue estoppel, and decided that this did not apply in the present matter for similar reasons. It decided further that as a general rule and in the absence of a contrary legislative provision, this doctrine would not apply even where the relevant earlier decision had been made by the AAT, as opposed to the Commission or the VRB.

Finally, the Tribunal directed that on the hearing of Mr Jebb's case, the parties could adduce such evidence as they may be advised in relation to the question of estoppel. This direction was made so that if the Federal Court, on any appeal from the Tribunal's ultimate decision on the merits of the claim, took a different view of the law relating to estoppel, the Federal Court would be in a position to determine for itself the Commission's contention as to estoppel, pursuant to the expanded powers conferred on that court by recent amendments to the *Administrative Appeals Tribunal Act 1975*.

Appendix 7: Freedom of information

Freedom of information statement

This statement is made in accordance with section 8 of the *Freedom of Information Act 1982* (the FOI Act) and is correct as at 30 June 2005.

Subsections 8(1) and 8(3) of the FOI Act require Commonwealth agencies to publish the following information:

- the organisation and functions of the agency
- arrangements that exist for outside participation in agency decision making
- the categories of documents the agency possesses
- how people can gain access to information held by the agency.

Organisation and functions

This statement should be read in conjunction with the more detailed information contained in Chapter 2 of this report relating to the establishment, organisation, functions and powers of the Tribunal.

Arrangements for participation by persons outside the Commonwealth administration

The Tribunal holds regular liaison meetings with users of the Tribunal, including Commonwealth agencies whose decisions are commonly reviewed by the Tribunal, legal practitioners and other professionals who often appear before it, law societies, bar associations, legal aid offices, veterans' representative groups, welfare rights organisations and other representative bodies. In addition, relevant external bodies are consulted in the development of any significant changes in the Tribunal's case management processes or to practice and procedure.

Categories of documents

The Tribunal maintains the following categories of documents:

- case files on applications to the Tribunal or applications for examinations by designated persons, including all papers lodged or produced
- a computerised register of cases
- internal working documents and correspondence
- hearings lists and associated papers
- statistical information
- administrative and personnel files
- Tribunal decisions and reasons for decisions
- Personnel Directions to Staff
- Chief Executive Instructions under the *Financial Management and Accountability Act 1997*
- *Registry Procedures Manual* and other reference materials
- Practice Directions
- *Getting Decisions Right* video (subtitled in eight languages, as well as in English)
- AATCAMS user manual
- AAT General Information sound recording cassette for the visually impaired
- information pamphlets
- Service Charter.

The following categories of documents are available (otherwise than under the FOI Act) free of charge on request:

- Service Charter
- information pamphlets on the Tribunal's practice and procedures
- Practice Directions.

The following categories of documents are available (otherwise than under the FOI Act) for inspection upon request:

- public register of applications to the Tribunal
- list of enactments under which the Tribunal has jurisdiction
- Tribunal decisions and reasons for decisions
- Personnel Directions to Staff
- Chief Executive Instructions
- *Registry Procedures Manual*
- administrative arrangements between the President of the Tribunal and the Commonwealth Ombudsman to facilitate mutual referral of matters where each body may have jurisdiction
- AATCAMS user manual
- *Getting Decisions Right* video.

The following documents are available for purchase by the public in accordance with arrangements with the Tribunal:

- copies of decisions and reasons for decisions
- *Registry Procedures Manual*.

In addition, AAT decisions can be accessed free of charge through the AustLII website (www.austlii.edu.au).

Facilities for access

Facilities for examining documents and obtaining copies are available at each District Registry. Documents available free of charge upon request otherwise than under the FOI Act are available from the Tribunal at each registry. The public registers are maintained in each registry.

Freedom of information procedures and initial contact points

Freedom of information contact officers will assist applicants to identify the documents they seek. The only officers authorised to deny access to documents are the Registrar and Assistant Registrar in the Tribunal's Principal Registry.

Inquiries concerning access to documents or other matters relating to freedom of information should be directed to the Registrar or the District Registrar in each Tribunal registry. Northern Territory residents should direct any inquiries to the Queensland Registry. Contact officers, addresses and telephone numbers are contained at the end of this annual report.

Appendix 8: Commonwealth Disability Strategy— the Tribunal’s performance in employer role

Performance indicator	Performance measures	Performance for 2004–05
Employment policies, procedures and practices comply with the requirements of the <i>Disability Discrimination Act 1992</i> .	All employment policies, procedures and practices meet the requirements of the Act.	Policies reviewed and found to comply with the requirements of the Act.
Recruitment information for potential job applicants is available in accessible formats on request.	All recruitment information requested is provided in: <ul style="list-style-type: none"> • accessible electronic formats • accessible formats other than electronic. Average time taken to provide accessible information in: <ul style="list-style-type: none"> • electronic format • formats other than electronic. 	100% available via fax, email and mail or by downloading from the Tribunal’s website. As set out in the <i>World Wide Web Access: Disability Discrimination Act Advisory Notes</i> , Website Accessibility Priority 1 and 2 checkpoints have been met. Telephone typewriter service is also available for use by hearing-impaired job applicants. All requests, both electronic and otherwise, are dispatched within 48 hours of receipt of requests.
Agency recruiters and managers apply the principle of reasonable adjustment.	All supervisors and managers are provided with information on reasonable adjustment; reasonable adjustments to the workplace are made to accommodate the needs of staff with disabilities.	All staff and managers of the Tribunal have access to information about reasonable adjustment in the Staff Selection Manual, Disability Action Plan and Reasonable Adjustment Policy, available on the Tribunal’s intranet. Adjustments have been made to accommodate hearing-impaired staff.
Training and development programs consider needs of staff with disabilities.	All training and development programs consider needs of staff with disabilities.	All in-house training programs consider the needs of staff and members with disabilities. The Tribunal also ensures that all externally organised events have facilities, if required, for disabled members or staff.
Training and development programs include information on disability issues as they relate to the content of the program.	All training and development programs include information on disability issues as they relate to the program.	All Tribunal in-house training and development courses include information on disability issues where relevant.

Appendix 8: Commonwealth Disability Strategy— the Tribunal's performance in employer role *continued*

Performance indicator	Performance measures	Performance for 2004–05
Complaints/grievance mechanism, including access to external mechanisms, in place to address issues and concerns raised by staff.	Established complaints/grievance mechanisms, including access to external mechanisms, in operation.	The formal process for dispute resolution is contained in the AAT Agency Agreement 1 July 2003–30 June 2006. In addition, there is provision for internal and external review of actions in the <i>Public Service Regulations 1999</i> .
Providers have established mechanisms for quality improvement and assurance.	Evidence of quality improvement and assurance systems in operation.	The following mechanisms ensure that quality of service to clients is maintained and improved: quarterly reporting and review of timeliness standards; performance management of staff; outreach service to self-represented applicants; and user liaison meetings at local, national and agency head level.
Providers have an established service charter that specifies the roles of the provider and consumer, and service standards that address accessibility for people with disabilities.	Established service charter that adequately reflects the needs of people with disabilities in operation.	The Tribunal has an established charter, which sets out its commitment to providing equitable access to all clients. The charter is available in pamphlet form (including in large print) and on the Tribunal's website.
Complaints/grievance mechanism, including access to external mechanisms, in place to address issues and concerns raised about performance.	Established complaints/grievance mechanisms, including access to external mechanisms, in operation.	The Tribunal has a formal complaints mechanism which includes provision for external complaint to the Ombudsman.

Appendix 9: Consultancies

■ **Table 9.1** Consultancies used in 2004–05 where gross value exceeded \$10,000 (incl. GST)

Name of Consultant	Description	Contract price for consultancy		Justification
		\$ Incl. GST	Selection process, including whether publicly advertised	
United KFPW	Independent property consultancy services	40,700	Open tender, advertised	B
Mr Robin Handley	Provide expert advice on Member Professional Development Scheme	17,364	Direct sourcing, not advertised	A and C
Profmark Pty Ltd	Development, management and reporting on user survey	27,130	Select tender, not advertised	B
Interiors Australia	Design of revised layout of Melbourne Registry	15,950	Select tender, not advertised	B
Interiors Australia	Project management and re-design of Canberra Registry	21,604	Select tender, not advertised	B

Justification:

A—skills currently unavailable in agency

B—need for specialist or professional skills

C—need for independent research or assessment

■ **Table 9.2** Consultancies let in the three most recent years where gross value exceeded \$10,000 (incl. GST)

Year	No. of Consultancies exceeding \$10,000 (incl. GST)	Aggregated Contract Value (incl. GST)
2002–03	5	\$72,400
2003–04	9	\$462,000
2004–05	5	\$122,749



Endmatter

162 Glossary

165 Contacting the Tribunal

Glossary

AASB	Australian Accounting Standards Board
AAT	Administrative Appeals Tribunal
AAT Act	<i>Administrative Appeals Tribunal Act 1975</i>
AAT Regulations	<i>Administrative Appeals Tribunal Regulations 1976</i>
AATCAMS	The Tribunal's computerised case management system
ACT	Australian Capital Territory
ADJR Act	<i>Administrative Decisions (Judicial Review) Act 1977</i>
ADR	Alternative dispute resolution
Affirm	The Tribunal may affirm a decision under review. This means that the original decision still stands.
AIAL	Australian Institute of Administrative Law
AIIJA	Australian Institute of Judicial Administration
ALD	Administrative Law Decisions
ANAO	Australian National Audit Office
Applicant	Person who has lodged an application for review with the Tribunal.
Application for extension of time	Applications must be made to the Tribunal within a certain time limit. However, an application may be made to the Tribunal to ask for an extension of time in which to lodge an application.
APS	Australian Public Service
ARC	Administrative Review Council
ASIC	Australian Securities and Investments Commission
ASIO	Australian Security Intelligence Organisation
ATSI	Aboriginal and Torres Strait Islander
AWA	Australian Workplace Agreement
CLE	Continuing Legal Education
COAT	Council of Australasian Tribunals
Conference	Also called a preliminary conference. A conference is conducted by a Tribunal Member or Conference Registrar with both parties present. The purpose of the conference is to identify issues in dispute, to negotiate a settlement of the case or, if settlement is not possible, to prepare a matter for a hearing.
Confidentiality order	The Tribunal may make an order directing that a hearing or part of a hearing be held in private and/or prohibiting or restricting the publication of the names of a party or witnesses. The Tribunal may also give directions prohibiting or restricting the publication of evidence or documents lodged with the Tribunal.

Directions hearings	Directions hearings may be held to deal with procedural matters such as the exchange of statements or documents, or, to clarify issues for a hearing. They may also be held to give directions to ensure progress in a matter in which there has been delay by a party.
Dismissal of application	In certain circumstances, an application may be dismissed by the Tribunal without proceeding to review the decision. An application may be dismissed, for example, by consent, or if the applicant fails to appear, or if the Tribunal is satisfied that the application is frivolous or vexatious.
EL	Executive Level officer of the Australian Public Service
EMS	Environmental Management System
FCA	Federal Court of Australia
FMO	Finance Minister's Orders
FOI	Freedom of information
Hearing	Appearance of parties and witnesses before the Tribunal to determine a matter. A hearing will proceed before a one-member, two-member or three-member Tribunal.
IFRS	International Financial Reporting Standards
Interlocutory application	An application to resolve procedural matters before a hearing, such as applications for a confidentiality order or an application for an extension of time to lodge an application.
IT	Information technology
Mediation	Mediation is a meeting involving the parties and a Tribunal member or Conference Registrar (the mediator). The parties try to negotiate a settlement of their case with the help of the mediator. The mediator is neutral and does not recommend or impose a settlement.
MP	Member of Parliament
MRT	Migration Review Tribunal
NAATI	National Accreditation Authority for Translators and Interpreters
NESB	Non-English-speaking background
NNTT	National Native Title Tribunal
NSW	New South Wales
NT	Northern Territory
OH&S	Occupational health and safety
Outcome	The result, impact or consequence of actions by the Australian Government on the Australian community.
Output groups	The aggregation based on homogeneity, type of product or beneficiary target group, of outputs.
Outputs	The goods or services produced by agencies on behalf of government for external organisations or individuals.
Outreach	A Tribunal program to help and inform self-represented applicants about Tribunal practices and procedures.

Party	A party is the applicant or the respondent.
Party joined	Where a person has applied to the Tribunal for review of a decision, any other person whose interests are affected by the decision may apply to be made a party to the proceeding, and the Tribunal may grant that application. This person is a party joined.
PBS	Portfolio Budget Statements
Portfolio Agency Budget Statements	Statements prepared by portfolio agencies to explain the Budget appropriations in terms of outcomes and outputs.
PSRT	Professional Services Review Tribunal
PWD	People with disabilities
Qld	Queensland
Remit	The Tribunal may set aside a decision and send it back (remit it) to the original decision maker to be reconsidered in accordance with any directions or recommendations of the Tribunal.
Respondent	The party who responds to or answers an application. This is usually the minister, official or agency which made the original decision.
RRT	Refugee Review Tribunal
SA	South Australia
Section 29 notice	A notice by the Tribunal to the agency that made the decision against which an application for review has been made, advising the agency of the application.
Section 37 documents	The statement and documents produced by an agency under section 37 of AAT Act, known generally as 'T documents'. They include the reasons for the decision against which an appeal is being made to the Tribunal, and other relevant documents.
SES	Senior Executive Service
Set aside	The Tribunal may set aside a decision under review. The effect is that the Tribunal disagrees with the original decision and makes a new decision.
SSAT	Social Security Appeals Tribunal
Stay order	An order of the Tribunal to suspend the implementation of the decision under review until the matter is determined or resolved.
Summons	A notice issued by the Tribunal calling a person to appear before it or to produce documents to it.
Tas	Tasmania
Taxation Division	Taxation Appeals Division
T documents	See 'Section 37 documents'.
Tribunal	Administrative Appeals Tribunal
Vary	The Tribunal may vary a decision under review. This means that the Tribunal changes or alters the original decision.
Vic	Victoria
VRB	Veterans' Review Board
WA	Western Australia

Contacting the Tribunal

The Tribunal can be contacted in person, by telephone or in writing (by letter or fax). Office hours are 8.30 am to 5.00 pm, Monday to Friday.

If you are writing to the Tribunal, the letter should be addressed to:

The District Registrar
AAT
GPO Box 9955
Your capital city

Registry locations and contact numbers

New South Wales

District Registrar
Level 7
City Centre Tower
55 Market Street
SYDNEY NSW 2000

Telephone: (02) 9391 2400
Facsimile: (02) 9283 4881

Victoria

District Registrar
Level 16
Southgate, HWT Tower
40 City Road
SOUTHBANK VIC 3006

Telephone: (03) 9282 8444
Facsimile: (03) 9282 8480

Queensland

District Registrar
Level 4
Commonwealth Law Courts
Cnr North Quay and Tank Street
BRISBANE QLD 4000

Telephone: (07) 3361 3000
Facsimile: (07) 3361 3001

South Australia

District Registrar
11th Floor
Chesser House
91 Grenfell Street
ADELAIDE SA 5000

Telephone: (08) 8201 0600
Facsimile: (08) 8201 0610

Western Australia

District Registrar
Level 8
Quadrant Building
1 William Street
PERTH WA 6000

Telephone: (08) 9327 7200
Facsimile: (08) 9327 7299

Tasmania

District Registrar
Ground Floor
Commonwealth Law Courts
39–41 Davey Street
HOBART TAS 7000

Telephone: (03) 6232 1712
Facsimile: (03) 6232 1701

Australian Capital Territory

District Registrar
4th Floor
Canberra House
40 Marcus Clarke Street
CANBERRA ACT 2601

Telephone: (02) 6243 4611
Facsimile: (02) 6247 0962

Northern Territory

Northern Territory residents should direct any enquiries to the Queensland Registry.

National telephone number

The Tribunal provides a national telephone number—1300 366 700. You can use it to call the Tribunal's office, in the capital city of the State in which you live, for the cost of a local call. Those calling from the Northern Territory and the Northern Rivers area of NSW will be connected with Brisbane.

Telephone typewriter service

The Tribunal has established a telephone typewriter service for the deaf and hearing or speech impaired. The service's number is 1800 650 662. You can use this service to call the Tribunal from anywhere in Australia free of charge. It is not a voice phone and cannot be used as such.

Tribunal website

Further information about the Tribunal, including more details about contacting the Tribunal, is available from the Tribunal's website—
www.aat.gov.au.



Indexes

168 Compliance Index

170 Alphabetical Index

Compliance Index

Description	Page
Letter of transmittal	iii
Table of contents	iv
Indexes	168–174
Glossary	162–164
Contact officer	v
Internet home page address and internet address for report	v
<i>Review by the President</i>	2–3
<i>Agency overview</i>	
Overview description of agency	12–20
Role and functions	12–13
Organisational structure	13–14
Outcome and output structure	25
Where outcome and output structures differ from PBS format, details of variation and reasons for change	No variation
<i>Report on performance</i>	
Review of performance during the year in relation to outputs and contribution to outcomes	25–30
Actual performance in relation to performance targets set out in PBS/PAES	26–28
Performance of purchaser/provider arrangements	Not applicable
Where performance targets differ from the PBS/PAES, details of both former and new targets, and reasons for the change	No variation
Narrative discussion and analysis of performance	22–30

Description	Page
Trend information	22–30, 126–138
Factors, events or trends influencing performance	2–5, 22–30
Significant changes in nature of principal functions/services	No significant changes
Performance against service charter customer service standards, complaints data, and the agency's response to complaints	31
Social justice and equity impacts	19–20, 47
Discussion and analysis of financial performance	25–27, 50–51
Discussion of any significant changes from the prior year or from budget	No significant changes
Summary resource table, by outcome	26
Developments since the end of the financial year that have affected or may significantly affect operations or financial results in future	None to report
<i>Management and accountability</i>	
<i>Corporate Governance</i>	
Names of the senior executives and their responsibilities	14–15
Senior management committees and their roles	16–17
Corporate and operational planning and associated performance reporting and review	6–10, 50
Approach adopted to identifying areas of significant financial or operational risk and arrangements in place to manage risks	51

Description	Page
Certification of fraud measures in place	51
Policy and practices on the establishment and maintenance of appropriate ethical standards	50
How nature and amount of remuneration for senior executive service employees are determined	49
<i>External Scrutiny</i>	30–31
<i>Management of Human Resources</i>	
Assessment of effectiveness in managing and developing human resources	44, 48
Workforce planning, staff turnover and retention	48
Impact and features of certified agreements and Australian Workplace Agreements	48, 124
Training and development	44–46, 49
Occupational health and safety performance	49–50
Productivity gains	49
Statistics on staffing	124–125
Performance pay	48–49
<i>Assets management</i>	Not applicable
<i>Purchasing</i>	52
<i>Consultants</i>	52–53, 159
<i>Competitive tendering and contracting</i>	53
<i>Contracts exempt from Purchasing and Disposal Gazette</i>	52
<i>Commonwealth Disability Strategy</i>	47, 157–158
<i>Financial statements</i>	58–100

Description	Page
<i>Other legislative requirements</i>	
Advertising and market research	53
Discretionary grants	53
Ecologically sustainable development and environmental performance	53
Freedom of information	30, 155–156
Occupational health and safety	49–50

Alphabetical Index

A

AAT Agency Agreement, 48
 AATCAMS (computerised case management system), 53
 Aboriginal and Torres Strait Islander traineeship, 46
Access and Equity Report 2004: Progress in implementing the Charter of Public Service in a Culturally Diverse Society, 46
 access to information and files, 149–150, 155–156
 accessibility to users, 19–20
 accommodation, 4, 52
 accounting policies, 69–75
 accounting standards, 75–77
 adjournments of hearings, 34
 Administrative Appeals Tribunal
 achievements, 6–10
 community awareness of, 41
 establishment, 12
 financial statements, 57–99
 functions and powers, 12–13
 jurisdiction, 12, 140–142
 membership, 15, 102–123
 organisation, 13, 50–55
 organisational plan and statement of achievements, 6–10
 outcome, v, 25, 26, 98–99
 overview, 12–20
 Practice Directions, 17, 34–35
 Practice Manual, 45–46
 workload and performance, 22–32
Administrative Appeals Tribunal Act 1975, 12
Administrative Appeals Tribunal Amendment Act 2005, 12–13, 36
Administrative Appeals Tribunal Regulations 1976, 12, 139
Administrative Decisions (Judicial Review) Act 1977, 30
 Administrative Review Council, 40
 administrative structure, 13–14
 advertising and market research, 53
 alternative dispute resolution, 2, 13, 36, 41
 Alternative Dispute Resolution Subcommittee, 36
Anshun estoppel, 153–154
 appeals from decisions of the Tribunal, 30
 appeals determined, 137
 appeals lodged by jurisdiction, 137
 outcomes of appeals determined, 138

application fees, 139
 applications current, 24–25
 by District Registry, 136
 status of, 135
 applications finalised, 23–24, 126–134
 by District Registry, 132
 by outcome, 134
 price, quality and quantity of, 26, 28
 without a hearing, 133
 see also outcome; output structure
 applications lodged, 22–23, 126–132
 by District Registry, 132
 appointments and reappointments, 45
 asset management, 51
 Assistant Registrar, 15
 Attorney-General's Department, liaison with, 39, 40
 audit
 Audit Committee, 51
 audit report, 58–59
 and fraud control, 51
 Auditor-General, 31
 Australian Capital Territory Reviewable Decision Protocol, 35
Australian Federal Police Act 1979, 20
 warrants under, 32
 Australian Government Information Management Office CIO Forum, 40
 Australian Institute of Criminology, cooperation with, 41, 48
 Australian National Audit Office, 30
 Australian Protective Service, 51
 Australian Security Intelligence Organisation, 12
 Australian Taxation Office, 39
 challenges to objection decisions of, 38
 Australian Workplace Agreements, 48

B

bankruptcy, applications lodged and finalised, 132
 benevolent fund, 47
 bonuses, 48
 business continuity plan for information technology systems, 54

C

case management, 4
 of taxation scheme matters, 38
 case management system, 53–54
 Centrelink, 39
 Certified Agreement, 48
 Chief Information Officer forums, 40

Chubb Security Pty Ltd, 51
 citizenship, applications lodged and finalised, 128
 civil aviation (decisions of interest), 143
 Client Services Officers' Conference, 46
Code of Practice for Notification of Reviewable Decisions and Rights of Review, 26
 committees, 16–17
 Commonwealth Compensation Liaison Committee, 35
 Commonwealth Disability Strategy, 47
 performance against, 157–158
Commonwealth Electoral Act 1918, 58
 Commonwealth Ombudsman, 31
 Commonwealth Protective Security Manual, 51
 communications services tender, 54
 community awareness of the Tribunal, 41
 compensation
 appeals from decisions of the Tribunal, 137, 138
 applications current, 25
 applications finalised, 126, 133, 134
 applications lodged, 23, 126
 decisions of interest, 144
 outcomes of, 138
 and timeliness of review, 28
 user forums, 36
 compensation jurisdiction pilots, 35–36
 competitive tendering
 see consultants; tenders
 complaints, 20, 31
 performance in relation to, 31
 conciliation conferences (number of), 137
 concurrent expert evidence study, 37–38
 Conference Registrars, 16, 17
 conferences
 for education and training, 41, 44, 46
 number conducted, 137
 Constitution Committee, 16, 38–39
 constitution of tribunals for hearings, 136
 consultants, 52–53, 159
 contact details, 165–166
 contracting-out, 53
 see also purchasing
 controlled operations certificates
 functions of the Tribunal relating to, 20
 workload, 32
 corporate governance, 50–55
 Corporate Support, 50
Corporations Act 2001, 78
 Council of Australasian Tribunals, 39–40
Crimes Act 1914, 20

 controlled operations certificates under, 32
 current matters see applications current
Customs Act 1901, 20
 warrants under, 32

D

decisions of the Tribunal
 appeals from, 30, 137–138
 decisions of interest, 143–154
 definitions (glossary), 162–164
 Department of Immigration and Multicultural and Indigenous Affairs, 47
 Department of Veterans' Affairs, 39
 Disability Action Plan, 19, 47
 discretionary grants, 53
 dispute resolution process, 17–18
 alternative dispute resolution, 2, 13, 36, 41
 District Registrars, 46
 District Registries, 16
 applications current, 136
 applications lodged and finalised, 132
 current taxation scheme matters, 38
 locations and contact numbers, 165
 proceeds of crime examinations, 32
 warrants issued, 32

E

ecologically sustainable development, 53
 education see professional development scheme; training
Education Services for Overseas Students Act 2000, warrants under, 32
 employment agreements, 48
 environment, applications lodged and finalised, 127
Environment Protection and Biodiversity Conservation Act 1999, 53
 environmental performance, 53
 equal employment opportunity statistics, 124
 see also workplace diversity
 equity, 47
 estoppel, 153–154
 ethical standards, 50
 executive remuneration, 91
 exempt contracts, 52
 external scrutiny, 30

F

family assistance, applications lodged and finalised, 127
 Federal Court of Australia, 13, 38

- cooperation with, 40, 41
 - and external scrutiny of the Tribunal, 30
- Federal Magistrates Court
 - cooperation with, 41
 - and external scrutiny of the Tribunal, 30
- financial management, 50–51
- Financial Management and Accountability Act 1997*, 69
- financial performance, 61
- financial position, 62–65
- financial reporting standards, 75–77
- financial statements, 57–99
 - notes to, 68–100
- fraud control plan, 51
- freedom of information, 30, 155–156
 - applications lodged and finalised, 129
 - Practice Direction on, 17
- Freedom of Information Act 1982*, 30, 52
 - and external scrutiny of the Tribunal, 30
- functions and powers of the Tribunal, 12–13

G

- glossary, 162–164
- governance, 50–55

H

- harassment policy, 47
- heads of tribunals meeting, 40
- health and aged care, applications lodged and finalised, 128
- Health Insurance Act 1973*, 41
- hearings (number of), 137
- human resource management, 48–50
- Human Resource Management Section, 14, 50

I

- immigration
 - applications lodged and finalised, 128
 - user forums, 36
- increments (pay), 49
- independent audit report, 58–59
- Indigenous Employment Strategy, 46
- induction program for new members, 45
- industry, applications lodged and finalised, 128
- information dissemination, 19
 - access to information (decisions of interest), 145–147
- information technology, 4, 53–54
 - business continuity plan for, 54
 - Endorsed Supplier Arrangement, 52

- strategic alliances with partners, 40
- Information Technology Steering Committee, 16, 54
- insurance, 51
- Internet home page, 19, 168
- interlocutory hearings (number of), 137
- intermediate timeliness statistics for
 - applications, 29
- interpreter services, 19

J

- Judiciary Act 1903*, 30
- jurisdiction, 12
 - changes to, 140–142

L

- learning and development, 44
- legal advice schemes, 4, 19–20, 37
- letter of transmittal, iii
- Library and Information Services, 54
- Library Committee, 16–17, 54
- Listing and Adjournment Practice Direction, 17, 34
- Listing Coordinators, 17, 18
- Listing Coordinators' Committee, 17

M

- market research see advertising and market research
- mediations (number of), 137
- meetings with users, 36
- members of the Tribunal, 15, 102–123
 - salaries/terms and conditions, 48
- Migration Act 1958*, warrants under, 32
- migration jurisdiction see immigration
- Migration Review Tribunal, cooperation with, 40
- mooting competition, 41–42

N

- National Native Title Tribunal, cooperation with, 40
- non-compliance, addressing, 37
- non-salary benefits, 49
- notes to financial statements, 68–100
- notification of review rights, 26

O

- occupational health and safety, 49–50
- Ombudsman, 31
- organisational plan and statement of
 - achievements, 6–10, 50
- outcome, v, 25–26

reporting of, 98–99
total resources for, 25, 26
output structure, 25
Outreach Program, 19, 158
overview of the Tribunal, 12–20

P

pamphlets, 19
parliamentary committees, 31
partners of the Tribunal, 39–42
 organisational plan and statement of
 achievements in relation to, 10
passports, applications lodged and finalised, 126
payroll services, to Australian Institute of
 Criminology, 41, 48
people, 44–50
 organisational plan and statement of
 achievements in relation to, 8
 see also staff
performance agreements, 49
performance, in relation to Service Charter and
 complaints, 31
Performance Management Program, 49
performance pay, 49
performance results, 25–27, 31
performance standards, 27
personnel services, to Australian Institute of
 Criminology, 41, 48
pesticides (decisions of interest), 147
Policy and Research Section, 54–55
Portfolio Agency Budget Statements, v, 25
post-traumatic stress disorder (decisions of
 interest), 145–147
powers and functions of the Tribunal, 12
practice and procedure (decisions of interest), 149
Practice and Procedure Committee, 17, 34
Practice Directions
 Freedom of Information, 17
 Listing and Adjournment Practice Direction,
 17, 34
 Practice Direction on Procedures relating to
 Section 37 of the AAT Act, 17
 review of, 34–35
Practice Manual, 45–46
President, 15
 President's overview, 2–3
primary industries, applications lodged and
 finalised, 129
Principal Registry, 16
privacy (decisions of interest), 149–153
Proceeds of Crime Act 2002

 examinations under, 32
 functions of the Tribunal relating to, 20
procurement see purchasing
productivity gains, 49
Professional Development Committee, 17, 44–45
professional development scheme, 3, 44–45
professional qualifications, applications lodged and
 finalised, 129
Professional Services Review Tribunal, 41
property, 4, 52
publications, 19
purchasing, 52
 see also contracting-out

R

reader's guide, iv
recruitment, 50, 157
 advertisements, 53
Registrar, 15
 Registrar's report, 4–5
Registries, 16
remuneration
 auditors, 91
 executive, 91
 increments, 49
 salary packaging, 48
 Senior Executive Service officer, 49
 staff salary ranges, 48, 124–125
review processes, 12–13
 efficiency and fairness of, 26
 timeliness of, 28–30
risk management, 51

S

salaries, 48–49, 86, 124–125
security
 clearances, 51
 physical, 51
security appeals, applications lodged and finalised,
 129
self-represented parties, 16, 158
Service Charter, 20
 performance in relation to, 31
Small Taxation Claims Tribunal, 29
 appeals from decisions of the Tribunal, 137,
 138
 applications current, 25
 applications finalised, 29, 129
 applications lodged, 23, 129
 and timeliness of review, 29
social security

- appeals from decisions of the Tribunal, 137, 138
- applications current, 25
- applications finalised, 24, 127–128
- applications lodged, 23, 127–128
- and timeliness of review, 28
- user forums, 36
- sporting achievements, 47–48
- staff, 15, 124–125
 - non-salary benefits, 49
 - retention, 48
 - salaries and remuneration, 48–49, 86, 124–125
 - working conditions, 48
 - see also people
- staff benevolent fund, 47
- staffing levels, 89
- statement by chief executive officer and chief finance officer, 60
- statistics, 126–138
 - staff, 124–125
- Surveillance Devices Act 2004*, 20, 32

T

- Taxation Appeals Division
 - appeals from decisions of the Tribunal, 137, 138
 - applications current, 25
 - applications finalised, 24, 129–130
 - applications lodged, 23, 129–130
 - and timeliness of review, 28
 - user forums, 36
- taxation scheme matters, management of, 38
- Telecommunications (Interception) Act 1979*, 20
 - warrants under, 32
- telephone typewriter service, 166
- tenders
 - advertising of, 53
 - for communications services, 54
 - for property consultant, 51
 - for replacement case management system, 4, 40, 51
 - for survey of users, 36–37
 - see also consultants
- timeliness of review, 28–30
- training and development, 41, 44–45, 49
- transmittal letter, iii
- transport, applications lodged and finalised, 130–131
- Tribunal see Administrative Appeals Tribunal
- tribunals for hearings, constitution of, 136

U

- user forums, 36
- user survey, 4, 36–37
- users of the Tribunal, 34
 - organisational plan and statement of achievements in relation to, 6–7

V

- veterans' affairs
 - appeals from decisions of the Tribunal, 137, 138
 - applications current, 25
 - applications finalised, 24, 130
 - applications lodged, 23, 130
 - decisions of interest, 153
 - and timeliness of review, 28
 - user forums, 36
- Victorian/Western Australian Early Dispute Resolution pilot, 35–36

W

- warrants, 32
 - functions of the Tribunal relating to, 20
 - workload, 32
- website, 19, 168
- work experience placements, 42
- working conditions, 48
- workload, 22–25
 - and performance of the Tribunal, 22–32
 - see also statistics
- workplace diversity, 46–47
- Workplace Harassment Contact Officers, 47
- workplace planning, 48



Administrative Appeals Tribunal
GPO Box 9955 in your capital city
www.aat.gov.au