



Chapter 1

The year in review

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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 Leathem. 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	
Key result area	Goals	Strategies 2004–05	Key targets 2004–05	Outcomes	Achievements
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 Adjournment 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.