



# CHAPTER 4

## OUR USERS AND OUR PARTNERS



## OUR USERS

The principal users of the Tribunal are parties to proceedings in the Tribunal – individuals, organisations, government departments and agencies – and their representatives. This section reports on how the Tribunal worked to provide a high-quality national merits review process that contributes to community confidence in a system of open and accountable government.

### Practice and procedure

The Tribunal monitors the operation of the review process to ensure that it continues to be fair, just, economical, informal and quick. Significant developments in practice and procedure issues during the reporting period are discussed below.

The Practice and Procedure Committee, supported by staff from the Policy and Research Section, considers ways in which practice and procedure can be improved to promote the effective and timely disposition of applications lodged with the Tribunal. The Committee met twice during the year, in November 2010 and May 2011.

### Case management

The Tribunal continued in 2010–11 the examination of its approach to case management that began in 2009–10.

A range of initiatives implemented in 2010–11 enabled the Tribunal to monitor more closely its caseload and enhance its practices and procedures. Registries prepared monthly reports on the age of their caseload – the number of cases in each stage of the review process and the time cases had spent in each stage. Protocols for the regular review of older cases were implemented as a means of determining strategies for managing individual cases as well as identifying trends and issues warranting further attention. Registries also conducted a general review of their case management approach and practices. These initiatives have led to improvements in timeliness in 2010–11, as shown in Chapter 3.

During the year the Tribunal actively identified potential reforms to case management

practices for different types of cases. In 2010–11, the focus was on the workers' compensation jurisdiction. The Practice and Procedure Committee approved changes to the practice and procedure for this jurisdiction in May 2011, and these will be implemented in 2011–12.

Proposals for improvements to case management processes will continue to be developed and presented to the Practice and Procedure Committee for consideration as the Tribunal works with regular users and other stakeholders to ensure that applications are managed in the most effective and efficient manner.

### eServices

In late 2010 the Tribunal engaged Azure Pty Ltd to help develop an eServices Strategy that would identify initiatives, priorities and timings to guide the Tribunal to a suite of integrated technology systems and online services consistent with its strategic objective of providing fair, just, economical, informal and quick review. The project included consultations with members, staff and key external stakeholders, and involved a thorough review of the electronic services being delivered by courts and tribunals in Australia and overseas.

The Tribunal accepted the eServices Strategy Report and adopted the recommendations in May 2011. These included a commitment to embrace technology-enabled service delivery that:

- is easy to use
- increases efficiency
- improves access, particularly for self-represented parties and high volume clients
- increases service availability (24 hours a day, seven days a week) and remote access
- reduces need to attend at the Tribunal (where appropriate)
- reduces the cost of litigation for clients
- simplifies process, particularly for self-represented parties
- complements the Tribunal's case management strategies

- meets community expectations regarding online services
- is based on a well articulated policy foundation that covers issues such as access, privacy and security.

In June 2011 the Tribunal commenced work on the development of an online facility for accessing information about Tribunal applications and an electronic lodgement system for Tribunal documents. The Tribunal also arranged for a number of members and staff to pilot a 'myFiles' interface with the Tribunal's case management system. The interface provides a personalised view of Tribunal information designed specifically to suit the needs and areas of interest of the user.

### Changes to regulations

#### Fees

The Australian Government announced changes to the structure and amount of fees payable in Commonwealth courts and tribunals in the 2010–11 Budget. The changes that relate to the Tribunal were implemented by way of amendments to the *Administrative Appeals Tribunal Regulations 1976*; see Appendix 5 for more detail. The Tribunal took steps to ensure users were made aware of the changes.

#### General improvements

The Tribunal has reported previously that it conducted a review of the current Administrative Appeals Tribunal Regulations and identified a number of potential changes and areas for improvement. These include specifying more clearly the requirements for lodging documents electronically and the ways in which documents for Tribunal proceedings may be served; revising the provisions relating to the amounts payable for complying with a summons; and prescribing fees for the taxing of costs.

The Tribunal continued to work closely with the Attorney-General's Department on its proposals for amendments and anticipates that revised regulations will be made in 2011–12.

The Tribunal has also reported previously that it undertook a review of its procedures for determining the amount of costs that one party is to pay to another party. Finalisation of a new Practice Direction on Taxation of Costs has

been deferred pending consideration of the proposed fee regime for taxing costs.

### Review of summons procedures

The Tribunal has streamlined its procedures relating to the production of documents under a summons. The aim is to ensure that appearances before a Tribunal member are generally limited to situations in which there is a dispute about the production of, or access to, the documents. Successful pilots were undertaken in 2010–11 in the registries that were to yet introduce the procedures. It is anticipated that the streamlined procedures will be operating in all registries in 2011–12.

A practice direction relating to summonses will be introduced following the making of the revised regulations.

### Alternative dispute resolution

The Alternative Dispute Resolution Committee oversees and reviews the Tribunal's use of alternative dispute resolution processes. The committee met in November 2010, and in March and May 2011.

A key project in 2010–11 was the development of the Tribunal's policy on the use of accredited mediators. The committee recommended that the Tribunal seek to become a Recognised Mediator Accreditation Body, that mediations in the Tribunal be conducted only by members or Conference Registrars accredited under the national standards, and that conferences and conciliations ordinarily be conducted by accredited mediators. These recommendations were endorsed by the Practice and Procedure Committee in May 2011. The Tribunal will work to implement these recommendations in 2011–12.

The Tribunal continued to raise awareness of the alternative dispute resolution processes available at the Tribunal and encourage their use. Members and staff spoke at a number of external conferences and seminars about the Tribunal's approach.

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



The Tribunal’s new-look website was tested to ensure that it meets accessibility standards.

**Tax scheme matters**

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

**Communication with Tribunal users**

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

**Publications and website**

The Tribunal continued to update and improve its range of information products in 2010-11. The series of brochures for self-represented parties was updated to reflect changes to application fees and refunds. The Tribunal’s fact sheet for applicants who are overseas was revised. The brochures and fact sheets were translated into additional languages,

reflecting languages most frequently requested in recent years.

The Tribunal’s new-look website, with a clearer and easier to read style, was launched in early 2011 and has received a positive response from users. The new design was tested to ensure that it meets accessibility standards.

**Notification by email and SMS**

During 2010-11 the Tribunal established a working party to develop the policies and necessary technologies to increase the use of email as a primary means of communicating with parties and their representatives. The working party also oversaw the implementation of an SMS notification system so that self-represented parties, who have given the Tribunal their mobile phone number, are sent a reminder of upcoming alternative dispute resolution processes or hearings.

### Consultation with users

As part of its commitment to being an open and transparent organisation, the Tribunal met with regular users and other stakeholders in a range of settings during 2010–11.

The President and the Registrar held meetings with the heads of the following departments and agencies to discuss issues relating to the operation of the review process: Australian Taxation Office, Centrelink, Comcare, Department of Education, Employment and Workplace Relations, Department of Families, Housing, Community Services and Indigenous Affairs, Department of Immigration and Citizenship and Department of Veterans' Affairs. The President and senior staff also met with the Law Council of Australia's Commonwealth Compensation and Employment Law Committee. Senior staff met with senior managers from Centrelink to discuss a range of operational issues in the social security jurisdiction.

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

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

## OUR PARTNERS

The Tribunal seeks to develop collaborative relationships with organisations and individuals in contexts outside participation in Tribunal proceedings. Such partners are involved in administrative review, or have a general interest in tribunals and their work. They are also organisations with whom the Tribunal has entered into resource-sharing arrangements. This section reports on these relationships as well as activities undertaken by the Tribunal to raise awareness of its role and operations.

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

The Tribunal maintained and developed its relationships with a range of departments and agencies, organisations and individuals during 2010–11.

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

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

The Tribunal also liaises with other departments, agencies and bodies in the context of reviews that relate to work undertaken by the Tribunal or in relation to proposals that may impact on the Tribunal. In 2010–11, the Tribunal participated in reviews undertaken by the Administrative Review Council and the Australian National Audit Office.

#### Administrative Review Council

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

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

### **Council of Australasian Tribunals**

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

The Tribunal continued its active involvement in the Council during the year, receiving the benefits that membership offers including shared training, access to the COAT *Practice Manual* and networking opportunities.

Tribunal members and staff were active contributors to the work of the Council.

### **Liaison with other Commonwealth tribunals**

The Commonwealth merits review tribunals — the Administrative Appeals Tribunal, Migration Review Tribunal/Refugee Review Tribunal, Social Security Appeals Tribunal and the Veterans' Review Board — maintained their cooperative relationship during 2010–11. The President and the Registrar participated in meetings with their counterparts during the year. Liaison also included considering opportunities for achieving efficiencies through cooperative action, and ongoing communication between officers of the tribunals about matters such as staff vacancies, and learning and development activities.

### **Resource-sharing arrangements**

The Tribunal had in place arrangements with a number of organisations in relation to the provision of facilities and services in 2010–11, details of which are described below.

#### ***Federal Court of Australia***

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

#### ***Independent Protection Assessment Office***

The Tribunal entered an agreement with the Independent Protection Assessment Office to provide meeting rooms and other facilities in each of the Tribunal's registries for the conduct of interviews.

#### ***Migration Review Tribunal/Refugee Review Tribunal***

The Tribunal continued to provide accommodation and hearing room facilities for Migration Review Tribunal and Refugee Review Tribunal members in 2010–11, including hearing room assistance and videoconferencing facilities. Tribunal staff in Adelaide, Brisbane and Perth receive applications and handle enquiries on behalf of the Migration Review Tribunal and Refugee Review Tribunal.

#### ***National Native Title Tribunal***

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

#### ***Veterans' Review Board***

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

### **International relationships and delegations**

#### ***International Association of Supreme Administrative Jurisdictions***

The International Association of Supreme Administrative Jurisdictions (IASAJ) is an organisation for bodies that are empowered to adjudicate public law disputes. The association's purpose is to promote the exchange of ideas and experiences between jurisdictions. The IASAJ was founded in 1983, and the Tribunal has been a member since 2004. Justice Downes is a past co-president of the association and attended an IASAJ Board Meeting in Vienna in April 2011.

### Visiting delegations

The Tribunal regularly hosts visitors from international courts and tribunals, and other organisations interested in gathering information on the Tribunal and its operations. In September 2010 Justice Mark Sevua CBE and Mr Joseph Yeou from the Supreme and National Courts of Papua New Guinea visited the Tribunal.

### Better understanding of the Tribunal and its role

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

### Tribunal participation in external conferences, seminars and other activities

The Tribunal was pleased to take up the invitation from the Law Week Planning Committee in Sydney to participate in the Martin Place Legal Expo and contribute to the theme of *Law and Justice in Your Community*. Staff and Conference Registrars gave information and brochures to interested members of the public.

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

### Mooting competition

The Tribunal's sixth annual Mooting Competition ran from June to October 2010. The moots are abridged versions of Tribunal hearings. The teams present written and oral submissions, based on a factual scenario drawn from the Tribunal's jurisdictions, to a Tribunal member or members acting as adjudicators.

The competition was open to law students enrolled in any Australian university and there were 28 teams from 15 universities. The grand final involved teams from the University of Adelaide and the University of New South Wales mooting before Justice Garry Downes,

Senior Member Naida Isenberg and Senior Member Stephen Frost. The team from the University of New South Wales – Smriti Arora (senior counsel), Matt Cobb-Clark (junior counsel) and Jason Qian (researcher/scribe) – was declared the winner. The University of Adelaide team comprised Sanjay Schrapel (senior counsel), Patrick McCabe (junior counsel) and Audrey Sam (researcher/scribe).

Matt Cobb-Clark was the recipient of the inaugural Law Council of Australia Best Oralist Prize.

### Sponsoring work experience placements

The Tribunal seeks to provide a range of opportunities for work experience candidates, creating meaningful opportunities for the students to develop an understanding of the Tribunal's role and processes.

During the year, law students participating in the University of Adelaide Public Law Internship Program, and high school students from St Aloysius College and Seymour College, gained valuable experience in the Adelaide Registry. The Tribunal provided opportunities for students in Melbourne (through an agreement with the Leo Cussen Institute), one of whom was subsequently successful in gaining an associate's position with the Tribunal.

The Tribunal worked with Manly High School and Wollongong University, placing students in the Sydney Registry.

As a Partner Organisation in the University of New South Wales Law Faculty Public Interest Internship Program, the Tribunal offers work experience to students for them to gain practical legal experience with a designated supervisor/mentor. After selection, interns attend the Tribunal for the equivalent of one day a week over 13 weeks.

