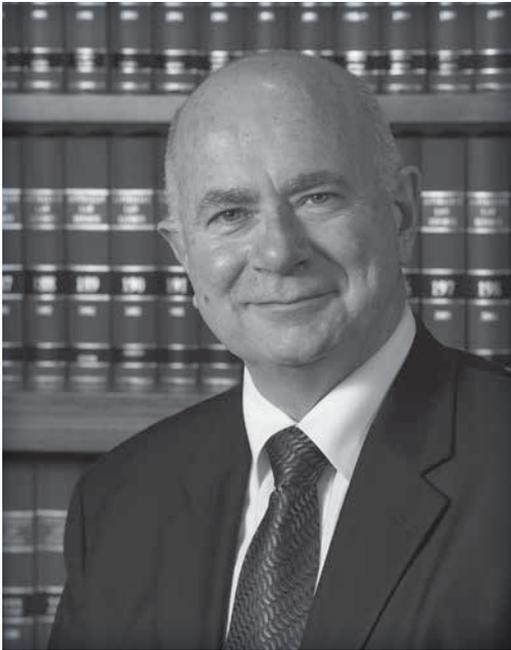


CHAPTER 1

// The year in review

President's overview



Justice Kerr

The 2015–16 financial year was the 40th year of operation of the Administrative Appeals Tribunal (AAT) and also the first since we merged with the former Migration Review Tribunal (MRT), Refugee Review Tribunal (RRT) and Social Security Appeals Tribunal (SSAT). This first annual report of the amalgamated AAT therefore covers a year of significant change. As a result of amalgamation, the AAT has grown and evolved to match much more closely what the Commonwealth Administrative Review Committee (Kerr Committee) recommended when it first proposed the creation of a generalist Commonwealth merits review tribunal some 45 years ago.

We became a significantly larger entity on 1 July 2015, expanding from an organisation with 155 full-time equivalent members and staff in 2014–15 to one with more than 700 full-time equivalent members and staff in 2015–16. I am very proud of what our staff and members, those already with the AAT and those who became part of the Tribunal as a result of this expansion, have achieved over the past 12 months. While recognising we still have much to do, it is

important to acknowledge how far we have come in building our amalgamated Tribunal, notwithstanding many challenges. Crucially, we were able to ensure continuity of operations in all eight divisions of the AAT during this period of change.

Tribunal integration in 2015–16

In 2015–16 we started building a truly integrated and national Tribunal that will continue to deliver high-quality, effective and efficient merits review.

We established a new senior management team and new governance arrangements, including key committees and groups to support the President and Registrar. We welcomed the Attorney-General's appointments of Ms Jan Redfern, Mr Bernard McCabe and Mr Jim Walsh as Deputy Presidents and Division Heads in February and March 2016. Dr Irene O'Connell ably acted as the Migration and Refugee Division Head before Ms Redfern's appointment, and Mr Walsh moved from being the acting Social Services and Child Support Division Head to its inaugural Division Head. Mr McCabe is the inaugural Division Head of the Taxation and Commercial Division.

We developed our Strategic Plan 2015–20 which provides a focus for our activities and will guide our decision-making for the coming years. The plan identifies our major priorities: to create an integrated, national Tribunal; to improve how we work and maximise our use of technology; to nurture relationships and partnerships, particularly with our members, staff and key stakeholders; and to make the best use of our resources and build capacity in delivering merits review.

Working groups were established to develop recommendations for harmonising and enhancing our operations in three critical areas: the client service group considered front-line services for parties and representatives and some case-related administrative functions; the member support group looked at the provision of high-quality administrative, legal and decision-preparation support to members; and the listings and

proceedings group considered issues relating to case pathways, the allocation of cases to members and conference registrars, and the scheduling of proceedings.

On 1 July 2015, we inherited multiple accommodation holdings in each state capital city. We made considerable progress during the reporting year on our plan to move to one location in each city. We achieved this aim in Hobart and Sydney, and are well advanced in our planning to do the same in Adelaide, Brisbane, Melbourne and Perth.

The work we have done on creating an effective, integrated organisation has also involved building a common culture. When humans create organisations, inevitably they build and reinforce cultural norms. Such cultural norms have much positive work to do and are essential in transmitting and reinforcing values. Our goal is to continue to create a culture that values collaboration, where members and staff share common commitments.

A significant event during the reporting year designed to support this goal was the first National Conference of the amalgamated AAT, which was held in May 2016. The conference focussed on professional development in relation to the core competencies required when undertaking merits review across the Tribunal. The conference also proved to be an excellent opportunity for members and senior staff from our registries Australia-wide to come together for the first time to get to know each other. We must continue to ensure that opportunities for training and professional development remain central to our ethos.

Tribunal membership and performance in 2015–16

We welcomed the appointment of 56 new members and the re-appointment of 83 serving members in 2015–16 with significant rounds of appointments announced in February, March and May.

In the same period, the appointments of 45 members expired. Amongst those whose terms came to an end were a number of long-serving members of the AAT and of the former MRT, RRT and SSAT. I thank all those members for their dedicated service.

We commenced the financial year with fewer than anticipated members transferring to the AAT from the former MRT and RRT. We then experienced some delays in appointments to address that shortfall. That, coupled with some reduced capacity while new members developed their knowledge and skills in their new roles, had an impact on the number of cases we were able to finalise in 2015–16. We are grateful that the Attorney-General has recognised and addressed this issue by settling a protocol to streamline the appointment process for the future.

With the amalgamation of the tribunals, the number of applications lodged with the AAT increased significantly, from 6,581 in 2014–15 to more than 41,000 in 2015–16. Total lodgements in the reporting year were also three per cent higher than the number of applications lodged in the three pre-amalgamation tribunals in 2014–15. There were increases in applications in most of our major areas of work when compared to applications in the previous year.

The AAT finalised more than 38,000 applications in 2015–16, nine per cent fewer than the number finalised by the pre-amalgamation tribunals in 2014–15. While we were able to increase the number of reviews completed in some areas of work, particularly the Social Services and Child Support Division, the overall reduction in finalisations led to an increase in the total number of applications on hand at 30 June 2016, particularly in the Migration and Refugee Division. We met our target of finalising 75 per cent of cases within 12 months, with many cases finalised within shorter timeframes. However, our timeliness worsened in some areas, including refugee decision-making. We aim to address these issues in 2016–17 with focussed strategies for dealing with backlogs in particular caseloads.

Other activities

The Tribunal continued to engage with other national and international organisations relevant to the work of the AAT in 2015–16. Members and staff continue to participate in the work of the Australian Institute of Administrative Law and the Council of Australasian Tribunals.

The AAT is also a member of the International Association of Supreme Administrative Jurisdictions. I attended the Association's 12th Congress in May in Turkey. The theme was "Alternative Dispute Resolution in Administrative Matters", a topic in relation to which the AAT was well-placed to make a contribution. Alternative dispute resolution is a key part of our review process in a number of areas of our work. The AAT's Director of Alternative Dispute Resolution prepared the Australian national report for the Congress, in conjunction with the Federal Court of Australia.

The President of the AAT is an ex-officio member of the Administrative Review Council. Under section 51(1) of the *Administrative Appeals Tribunal Act 1975*, the Council's functions include keeping the Commonwealth administrative law system under review, monitoring developments in administrative law and recommending improvements that might be made to the system. The Council's most recent report was Report No 50 *Federal Judicial Review in Australia*, published in 2012. Since that time, no appointments have been made to the Council. As a result, the Council's statutory functions, including its duty to provide a report of its operations to the Parliament, were unable to be discharged in 2015–16.

The Immigration Assessment Authority, a body established to undertake fast track reviews of decisions to refuse protection visas to certain unauthorised maritime arrivals, is legally distinct from the AAT. However, the President also heads the IAA, and the AAT provides the IAA with accommodation and administrative support. The IAA began to receive referrals of refused applications during this reporting period. Referrals began to increase in the final months of 2015–16, and are expected to increase rapidly in 2016–17.

Looking ahead

With the terms of a significant number of AAT members expiring in 2016–17, we look forward to the implementation of the protocol in relation to member appointments so that there is no interruption to the capacity of the AAT to undertake our work. More generally, we want to use our members and staff most effectively to deal with our caseload, and this requires appropriate cross-assignment of members and the integration of registry and support services provided by staff. I am grateful to the Attorney-General for his decision to delegate the power to cross-assign members to the President.

Some heritage constraints have limited the AAT's capacity to utilise our resources most effectively. Many of those constraints are the legacy of differences in statutory procedures that were left untouched in the translation of the former stand-alone tribunals to divisions of the AAT. That is an observation, not a criticism. It is doubtful that any amalgamation could have been achieved in the time required by the Government, or at all, without a pragmatic decision by all concerned in its design to not let the perfect become the enemy of the good. However, with that goal achieved, the AAT has identified the task of harmonising our procedures to the greatest degree possible as our highest priority.

This does not mean throwing out the baby with the bathwater. Integration does not require uniformity—indeed it would be folly to work on the premise that one size can fit all. As my predecessor as the President of the AAT, the Honourable Justice Garry Downes AM, noted in a paper marking the 30th anniversary of the Tribunal, each of the Tribunal's major jurisdictions "has particular characteristics that impact on the way in which those cases proceed towards resolution". His Honour recognised, as all generalist tribunals must, that jurisdiction-specific guidelines or practice directions can assist "to ensure that the case management process is best adapted to the nature of the case".

However, the existing reality at this stage of the AAT's amalgamation can be compared to the bringing together of different state rail systems but leaving for future consideration inefficiencies due to different heritage rail gauges, different systems for managing freight consignment, and different rules for engine drivers operating the system's freight and passenger trains.

We have identified a number of key areas where the AAT believes harmonising practices and procedures would improve the experience of users of the AAT, the performance of the AAT, and the functioning of the administrative decision-making system. The AAT will seek to work with Government on these issues. We will also continue to harmonise non-legislative areas of differences to identify and implement improvements in the way different types of cases are managed.

We will continue to work on developing a shared culture as well as consolidating our offices and integrating our systems. I recognise and thank all members and staff for their forbearance in remaining committed to the AAT's objective through this period of great change.

Achieving the full benefits of integration will require time coupled with a clear and positive strategy. Recognising the large commitment our members and staff have made to ensure the success of our first year as an amalgamated Tribunal, I am confident that the AAT is well on the way to achieving this.

Registrar's review



Sian Leathem

It has been a privilege to be Registrar of the AAT during the first year of operations following the amalgamation of the AAT with the MRT, RRT and SSAT. The first year of the amalgamated Tribunal has seen considerable strategic planning, organisational development and progress in relation to harmonisation and integration initiatives. Creating an integrated Tribunal from three former tribunals is a complex task that has many elements. However, we must also ensure during this time of considerable change that we continue to provide excellent service to our users in delivering merits review of administrative decisions.

Our Strategic Plan 2015–20 was developed following consultation with our members and staff across Australia. The plan sets out our vision to be an expert and innovative Tribunal that delivers accessible, high-quality and timely reviews. Set out below are our key achievements during the reporting period in relation to the four strategic priorities identified in the plan.

Creating an integrated, national Tribunal

In 2015–16, the integration of corporate and other whole-of-tribunal functions in the amalgamated AAT's Principal Registry was undertaken as a priority, along with the establishment of a suite of committees and groups to provide advice, oversight and forums for consultation with members and staff. Our three senior executives with responsibility for divisional operations were rotated midway through the year to strengthen capacity across the AAT's divisions at the senior executive level.

We co-located our offices in two cities during the reporting year, which will result in significant savings in property costs, with further consolidation of our accommodation portfolio to come next year. In Perth, we moved to having a single District Registrar providing management and leadership across divisions. We also advanced our plan to implement a national registry model which will result in us processing and supporting all types of applications in each state and territory where the AAT is located.

We began the work of reviewing current administrative practices in the different divisions with a view to harmonising procedures where appropriate. In Sydney, a client services team was formed to provide integrated front-line services for all divisions in that location. To assist staff to work across divisions, all procedural information is now accessible through a single electronic index.

Transforming how we work and maximising our use of technology

During the reporting year, we implemented an integrated intranet for the organisation and a single payroll system. We undertook further work on the integration of our IT networks, enhanced our IT systems to improve network management activities and security compliance, continued to improve the effectiveness of our electronic case management systems, and pursued projects to improve the digital management of our records. We also explored ways to consolidate information from our different case management systems, building tools that manage room bookings and allow case searches across divisions.

At amalgamation, applicants were able to lodge applications online in the Migration and Refugee Division and the Social Services and Child Support Division. In April 2016, we launched a portal that allows users to make online applications in the other divisions. The convenience of being able to apply online is now available for any type of decision that we can review.

Engaging with our stakeholders, members and staff

The AAT has a broad range of stakeholders, including our users, agencies and organisations that make administrative decisions we can review, peak bodies for persons who represent parties at the Tribunal and community and advocacy organisations. During the reporting year, we developed a framework for engaging with our stakeholders based on the principles of openness, transparency and inclusiveness. The framework supports our performance in relation to several areas of activity identified in the Council of Australasian Tribunals' *International Framework for Tribunal Excellence*.

In May 2016, we commissioned a user feedback survey that sought the views of our users about the services we provide. We are currently reviewing the results, including identifying areas where we could make improvements.

We also implemented a range of mechanisms for engaging and communicating with members and staff. These include ongoing consultation forums, a monthly newsletter and a range of other channels to encourage internal communication.

Optimising our resources

We are committed to the professional development of our members and staff. We established a Member Professional Development Advisory Group in 2015–16 and, following a comprehensive training needs analysis, developed a calendar of training events. A number of courses were designed to assist members and staff adapt to the changes associated with the amalgamation.

Enterprise bargaining for the amalgamated AAT commenced on 16 July 2015 and management continues to negotiate with bargaining representatives in relation to a new enterprise agreement.

The AAT operated in a tight fiscal environment during 2015–16. There were challenges in managing whole-of-government savings initiatives, specific savings arising from amalgamation, consolidation and co-location expenses and delays in member appointments. However, the Tribunal continued to deliver our core services in accordance with our statutory objective, completing a significant number of reviews.

Looking ahead

In 2016–17, a key focus area for the Tribunal will be commencing the process of transitioning from delivering our registry services within divisional frameworks to providing a more integrated registry service. We will implement, within our operational areas, a new functional senior executive structure that will achieve a greater whole-of-tribunal focus. We will also engage a consultant to review our current registry operations and develop a roadmap for integrating our registry services.

Another priority area will be starting work on our revised digital services strategy which will be settled in early 2016–17. Our aim is to develop a suite of integrated systems over a period of three to five years that will offer parties and representatives a range of online services that make it easier to deal with us. We will provide our members and staff with a range of digital tools to help them work more effectively and efficiently. Initiatives such as a more intuitive website, enhanced options for information exchange and communications, and improved case and records management systems will support better and more innovative review processes.

These activities, as well as the pursuit of greater harmonisation in our procedures and a funding model with an appropriate mechanism for responding to workload changes, will be important in ensuring that we are able to perform our statutory function in the most effective, efficient and timely manner into the future.

Finally, I would like to extend my thanks to the staff and members of the AAT for their efforts in building our organisation in this first year of the amalgamated Tribunal's operations and coping so well with the many challenges and uncertainties that such change brings. While our achievements are the result of the hard work of many people, I would particularly like to acknowledge Mr Rhys Jones, the AAT's Executive Director of Corporate Services, who played a key role in relation to the amalgamation. He retired in May 2016 after a career of almost 40 years in the Australian Public Service, many of which were spent in tribunals. We wish him well.

