
F O C U S

Specialist Tribunals Project

Since the mid-1980's specialist tribunals and the functions they perform have acquired increasing importance. In response to this development, the Administrative Review Council has begun a project to establish a more consistent and substantial relationship with the specialist tribunals. As a first step, a series of meetings was instituted between Council members and representatives of the tribunals. At these meetings a broad range of topics was discussed with a view to holding a conference in the near future.

From the meetings four main agenda items were selected for the conference:

- . co-ordination and co-operation between tribunals;
- . training needs of tribunal members;
- . development of guidelines for the constitution and operation of specialist tribunals and their relationship with government;
- . the Council's continuing relationship with the specialist tribunals.

The conference was held in Canberra on 3 May 1990.

Representatives from the following tribunals participated:

- . Immigration Review Tribunal (IRT)
- . Social Security Appeals Tribunal (SSAT)
- . Student Assistance Review Tribunal (SART)
- . Veterans' Review Board (VRB)

This paper outlines, under each agenda item, proposals which attracted support from Conference participants. It should be noted that these views do not necessarily reflect those of the tribunals represented. Moreover, the Conference did not make any formal resolutions.

Co-ordination and Co-operation Between Tribunals. It was suggested that the Council should consider advising the Attorney-General that, as the occasion arose, it would be consistent with principle and efficient in practice for the specialist tribunals and other review bodies to be located in the same premises and to share certain physical resources where that would be compatible with the characteristics of individual tribunals and the needs of their users.

It was also suggested:

- . that the facilities that might be shared include:
 - libraries, library services and research staff
 - technology
 - hearing and meeting rooms
 - support staff, particularly in smaller registries.

- . that the arguments in favour of this general policy include:
 - greater economy in use of resources;
 - improved support for members of individual tribunals in terms of intellectual and moral support and physical security;
 - cross fertilisation of ideas between specialist tribunals and development of consistency of principle and approach;
 - greater potential for the presence of review bodies in more remote parts of Australia, at reasonable cost;
 - opportunity to make more efficient use of advanced technology;
 - heightened awareness of administrative review and its role; and
 - improved access to review.

- . that another review body to which the co-location advice might relate is the Merit Protection and Review Agency (MPRA);

Training. The Conference suggested that the Council cost and facilitate the production of an appropriate and effective general training package for tribunals. The package would include computer based materials and video materials with the aim of developing communication skills. The computer based materials could be tried initially for one segment of the necessary training on, for example, an overview of the administrative review system. Parts of the training material may also be adaptable for use by other review bodies, primary decision-makers and users.

It was agreed that the package should include the following:-

Communication skills:

- . handling advocates
- . dealing with disabled clients
- . use of interpreters - telephone interpreters, sign language
- . negotiation skills
- . role of members with specialist expertise
- . presiding skills
- . word processing and other technology skills

Background:

- . overview of the administrative law system
- . diagram of primary decision-making system - diagram of each appeal process
- . procedural issues - natural justice
- . relationship between tribunals and courts

Decision-making skills:

- . decision writing
- . use of legal and other relevant research materials
- . reading and interpretation of statutes
- . ability to analyse evidence, and assessment of that evidence.

Development of guidelines for the constitution and operation of specialist tribunals and the relationship between tribunals and government. It was suggested that the Council advise the

Attorney-General of the need to consider greater consistency in several matters affecting specialist tribunals, including the constitution of tribunals in a broad sense, tribunal procedures, and the relationship between tribunals and the Government. It was suggested that the Council's Committee on Tribunals might become a standing committee and undertake a project to develop norms on these matters in consultation with the Tribunals themselves. The results might then be implemented in one of the following forms, as appropriate: in a general tribunals statute; in a protocol required by statute to be agreed between individual tribunals and the responsible minister; or in a code of ethics promulgated by the Government. In addition it was suggested that the Tribunals Committee should attempt to meet in cities other than Canberra in order to maintain contact with Tribunal members.

The Council's continuing relationship with the specialist tribunals. Delegates also suggested that the Council seek the support of the Government for an annual tribunals conference, dealing with broad issues of immediate significance. They expressed the hope that the first such conference could be held next year to deal with the topic 'Tribunal procedures: options and issues'. The details would be settled through a Heads of Tribunals meeting also attended by the President of the Council.

The Council agreed to include a regular feature on and for tribunals in Admin Review. This would report cases of general relevance; developments in tribunals; features on the practices of tribunals; research papers written by tribunals; and membership news.

The Conference proposed that heads of specialist tribunals meet with the Council regularly. The first joint meeting should be held as soon as possible. The Conference also reaffirmed the role of the ARC as a body prepared to examine issues at the instance of individual tribunals and, if necessary, to take them up with government.

Follow-up action by the Council. At its meeting on 4 May 1990 the Council agreed:

- . to advise the Attorney-General on the proposals of the Conference in respect of co-location of tribunals, an annual tribunals conference and the broad tribunal issues concerning constitution, appointments, procedures and relationship with government;
- . to further examine the development of the training proposal;
- . to form and maintain a standing committee on Tribunals;
- . to hold regular meetings with Heads of Tribunals;
- . to include a special feature in Admin Review.

The Attorney-General's Department was approached for practical assistance in developing the training proposal. The Heads of the VRB, the SSAT and the IRT have agreed to attend the September meeting of the Council where the form and content of a training package will be further discussed. This meeting will also be an important step in establishing and maintaining

communication on relevant issues between the Specialist Tribunals and the Council.

Longer-term project. The Council has undertaken a longer-term project on guidelines and norms for the constitution, procedures and operation of tribunals. The project will involve close consultation with the tribunals themselves. It will cover both the substance of any such guidelines and the manner in which they should be implemented. Options range from legislation, either general or specific in nature, to less formal approaches such as a code of conduct.

The Council will be seeking the views of agencies, groups involved in Tribunal activities and members of the public generally. The person responsible for the project is Ms Patricia Georgee, who can be reached at the ARC Secretariat, or by phone on (06)247 5100.

Administrative Review Council

LETTERS OF ADVICE

Since the May 1990 issue of Admin Review the Council has provided letters of advice on the following issues:

- . specialist tribunals
- . determination of refugee status
- . Commonwealth-State housing agreement: client appeal mechanism

PAPERS

On 30 June 1990 the Council released an issues paper on 'Rule Making by Commonwealth Agencies'. Rules or other instruments of general application are made in a variety of forms. Most of them have a significant impact on individuals or groups of individuals. The forms which they take, the processes by which they are made and their accessibility affect the efficiency, fairness and responsiveness of government. Last year the Council sponsored a conference on rule making. The issues paper is designed to stimulate debate on a range of questions on this important topic. The Council has distributed the paper for information and comment from Commonwealth agencies, Members of Parliament, consumer and business groups, the legal profession and academics, and other interested members of the public. Copies are obtainable from the Council Secretariat on (06) 2475100.

CURRENT WORK PROGRAM - DEVELOPMENTS

Broadcasting. Further work is being undertaken by the Communications Law Centre on a discussion paper on inquiry procedures of the Australian Broadcasting Tribunal and review of its procedural decisions. Receipt of the paper is expected soon.