



Administrative Appeals Tribunal

Registrar's opening statement

Senate Legal and Constitutional Affairs Legislation Committee

Supplementary Budget Estimates Hearing

26 October 2021

Thank you, Chair.

The Administrative Appeals Tribunal's 2020–21 annual report was tabled in Parliament last week so I will take this opportunity to outline our key outcomes for that year.

Against a backdrop of fluctuating demand for reviews across our diverse caseloads, resourcing constraints and other external factors, there is strong evidence we continued to place users at the centre of the Tribunal experience in 2020–21. We had adapted the way we work to ensure cases have been progressed throughout the pandemic, including by enabling hearings, other case events and information services to be delivered without the need for people to visit our registries.

Each year, we commission an independent researcher to survey AAT users. Despite the impacts of extended COVID-19 lockdowns, especially on our larger registries, we achieved a user satisfaction result of 77% in the 2020–21 survey, exceeding our annual target by 7 percentage points. Data from the survey revealed that 81% of parties and 90% of representatives were satisfied with their dealings with our members, conference registrars and staff. Feedback about our processes was also broadly positive. Overall, the survey demonstrated that most parties and their representatives continued to receive review services that were accessible, fair, just, economical, informal, quick, proportionate, and which promoted public trust and confidence in our decision-making. This outstanding result is directly attributable to the efforts of our members and staff.

During the reporting period, we received more than 37,000 applications, 31% fewer than in the previous year. This was the first reporting year, since the former tribunals amalgamated in 2015, that we finalised more applications than were received. We finalised 44,565 applications. More than half of these were in the Migration and Refugee Division. The AAT held in excess of 23,000 hearings, more than half of which were for migration or protection cases, and nearly 15,000 other case events including alternative dispute resolution processes and directions hearings. We prepared more than 28,000 decisions with written reasons and delivered approximately 3,000 oral decisions.

The decrease in lodgements enabled us to make modest inroads into our well-documented backlog, leaving 65,374 cases on hand at the end of the reporting year compared with around 72,000 the year before. We are already seeing an increase in lodgements in 2021–22 so it will be difficult to sustain this trend with the current member and staff resources.

While we exceeded our clearance ratio target of 100% in the reporting year, with finalisations outpacing lodgements, we were unable to meet our target for timeliness of completing 75% of cases within 12 months. This was due to the age of the backlog in our largest area of practice, the Migration and Refugee Division. While the target was met in some areas of our work, such as in the Immigration Assessment Authority (or IAA), the National Disability Insurance Scheme Division, the Small Business Taxation Division, and the Social Services and Child Support Division, the overall result for the AAT and the IAA combined was 54%, 6 percentage points lower than in 2019–20.

As evidence of the high quality of our decision making, the proportion of appeals against AAT decisions that were allowed by the courts was again well under our 5% target – at 2.3%.

We remained one of the highest volume publishers of decisions amongst all courts and tribunals in Australia. We published 5,860 decisions made during the reporting year, which is nearly 18% higher than our target of 5,000.

Also, in 2020–21, the AAT received and finalised around 1,600 requests to access documents under the *Freedom of Information Act 1982*, making us one of the agencies with the highest volume of FOI requests in Australia. As in previous years, most of these were requests to access personal information associated with applications for review of government decisions in the Migration and Refugee Division.

Looking ahead, the Tribunal's focus will always be on providing services to people and organisations seeking independent merits review. We are aware our important work will remain a challenge in the context of the ongoing pandemic and resourcing constraints, particularly as our largest volumes of work are undertaken in Melbourne and Sydney where the impacts of COVID-19 have been most disruptive.

In this environment, our members and staff strive to do all they can to progress cases and support initiatives that will improve the way we work over the long term. This includes our plans to design and deliver a single case management solution to address the issues we currently experience with our outdated legacy case systems.

We also welcome efforts to enhance consistency and improve flexibility across our divisions through the Courts and Tribunals Legislation Amendment (2021 Measures No. 1) Bill 2021, which was introduced into Parliament in June this year. The AAT will continue to engage with the Attorney-General's Department and other agencies to identify further opportunities for legislative harmonisation, particularly in relation to our migration and refugee caseloads where changes will support operations in our highest volume area of work and, ultimately, help us achieve our statutory objective.

On a final note, the Tribunal acknowledges an invitation from the Senate Legal and Constitutional Affairs References Committee to contribute to its inquiry into the performance and integrity of Australia's administrative review system. We are intending to make a submission.

Thank you, and I invite questions from the Committee.