

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: 1.4 Justice Services

Question No. SBE16/048

Senator Wong asked the following question at the hearing on 18 October 2016:

Senator WONG: Thank you. I want to ask some questions about the protocol which exists in relation to appointments to the AAT. Who can assist me with that—in terms of some of the administrative work associated with that?

Ms Leatham: I think that would be a matter for the Attorney-General's Department.

Senator WONG: No, because actually the protocol is between the AAT and the Attorney-General's Department. I intend to ask the Attorney-General's Department questions when we get to that outcome, but I do want to ask you, because under the protocol which has been in place since 2015—I did have some questions about that, but that might be best addressed to the department—the president of the tribunal supplies the Attorney-General with a range of information in relation to positions. Did that occur?

Ms Leatham: My understanding is there were discussions between the President and the Attorney-General to develop the protocol.

Senator WONG: No, that wasn't my question. There is a protocol. We have got a copy of a protocol from 2015. Under the protocol, the president is supposed to supply the Attorney-General with the tribunal's assessment of what positions need to be filled, advice about which members whose terms are expiring have sought reappointment and the president's recommendations regarding reappointment. Do you know what I am talking about?

...

Senator WONG: The end point of all of this is the president supplying the Attorney-General with some information, so I am trying to understand—I am going to give you a chance to go back through the process—what precipitates the first step. Is it the president being told by the A-G, 'I'm going to make a whole bunch of appointments'? Do we do this every three months? Is it the Attorney-General's Department telling you, 'Look, we're probably going to be looking at some appointments in a couple of months time or six months time; you better start that process.' What commences the process of ascertaining the data around vacancies and workload?

Ms Leatham: There is regular communication between the tribunal and the Attorney-General's department, who obviously play a role in helping coordinate this process. The president will also write to the Attorney-General alerting him to upcoming appointments that might need to happen.

Senator WONG: I am trying to understand where the process began for the appointments of May 2016. Are you, or is anyone from the department, able to tell me how that was commenced? Was there a letter from the president? Were there communications from the Attorney-General? Can I start first by saying I assume the department is aware of the protocol.

Mr Anderson: Yes, the department is aware of the protocol. What commenced the process for the May appointments was that the president wrote to the Attorney, providing an assessment of appointment needs. That was on 11 December 2015.

Senator WONG: Can you please table that letter.

Mr Anderson: We will take that on notice. We do not have that here.

The answer to the honourable senator's question is as follows:

Appointments to the Administrative Appeals Tribunal (AAT) are made in accordance with the protocol agreed between the Attorney-General and the President of the AAT, a copy of which is attached (Attachment 1).