

Question on notice no. 7

Portfolio question number: BE19-007

2019-20 Budget estimates

Legal and Constitutional Affairs Committee, Attorney-General's Portfolio

Senator Louise Pratt: asked the Attorney-General's Department on 4 April 2019—

Senator PRATT: Okay; take that on notice, that would be terrific. And can I please have tabled the new merit based appointments process?

Mr Moraitis: We've taken that on notice already.

Senator PRATT: Okay, but I just need to clarify that's not a question, that you're undertaking as a commitment that you will table it?

Mr Moraitis: We're undertaking to take it on notice to see if we can table it, yes.

Senator PRATT: Is there any reason why you wouldn't?

Mr Anderson: I think you might have been out of the room when Senator Patrick asked the same question. The minister indicated that it would be for the Attorney-General to consider, because that's a protocol that he has agreed with the president—whether there is any reason why it shouldn't be tabled.

Mr Moraitis: So we're deferring to them.

Senator PRATT: How do we know if it's merits based? You made an announcement to say that it was; how do we know that it is if we don't see it?

Mr Anderson: We've taken it on notice to provide it, subject to whether the attorney wishes to claim any privilege over it.

Answer —

The revised Protocol is attached.

PROTOCOL

Appointments to the Administrative Appeals Tribunal

2019

Vacancies on the Administrative Appeals Tribunal (AAT) will be filled in the following manner:

1. The President of the AAT will, every year, seek expressions of interest by public advertisement. The AAT will establish a register to receive applications that address selection criteria developed specifically for the AAT.
2. Subject to the President otherwise determining, expressions of interest will remain on the register for the calendar year they are received. Each calendar year the register will be repopulated.
3. The President of the AAT will establish a process to assess the suitability of applicants who have provided expressions of interest to the register.
4. The President of the AAT will supply the Attorney-General with:
 - a. the AAT's assessment of what positions need to be filled and at what level; and
 - b. advice about which members whose terms are expiring have sought reappointment; and
 - c. the President's recommendations regarding whether reappointments should be offered and at what level; and
 - d. the President's recommendations regarding suitable candidates for appointment that should be offered and at what level for positions where the President has recommended that reappointments should not be offered.
5. The process described in paragraph 4 will be conducted every six months and six months ahead of the vacancies arising, or as otherwise requested by the Attorney-General.
6. The President of the AAT's recommendations to the Attorney-General will be made having had regard to the outcomes of the process to assess the suitability of applicants who have provided expressions of interest to the register.
7. The Attorney-General is not limited to candidates recommended by the President of the AAT and may choose to recommend to Cabinet a candidate for a position that has not been suggested by the President of AAT or is not on the register.
8. The Attorney-General will consult ministerial colleagues who must be consulted in respect of potential appointments to particular Divisions.
9. The Attorney-General will then recommend appointments to Cabinet. If the appointment(s) receive Cabinet's approval, the Attorney-General will recommend the appointment(s) to the Governor-General for consideration.