

Welcome

By Barry Cotterell, Interim Convenor, Queensland State Chapter of COAT and member of the Executive of the National Council of COAT

The Honourable the Attorney-General for Queensland, Mr Rod Welford
The Honourable Mr Alan Demack
Mr Steve Karas,
Dr Stephen Colbran

Ladies and Gentlemen

On behalf of the National Executive and the Interim Committee of the Queensland State Chapter of COAT I would like to welcome you all to the First Seminar conducted by COAT in Australasia.

Tribunals have proliferated in Queensland in recent years.

What the Western Australian Task Force Report recently said about the situation with Tribunals in Western Australia¹ is equally applicable to Queensland,

“The current system is due to the historical creation and accretion of tribunals and boards to deal with particular regulatory issues or demands for administrative justice. While this might have been justified at the time, the current system largely relies upon tribunals and boards with a part-time professional, occupational or commercial membership drawn from the fields that they seek to regulate or oversee. The quality and consistency of decisions made by these various bodies necessarily depends upon the composition of the particular tribunals and boards from time to time. Additionally, each must be separately funded and equipped. Rarely is it the case that individual bodies are exposed to the ‘best practice’ of other bodies. In the main, the opportunity to share resources and expertise does not exist.”

Across the various professions, occupations and businesses regulated by legislation there is now no consistency of approach to reviews of licensing decisions or to the way disciplinary matters are conducted.

The Queensland Chapter of COAT has identified 47 Tribunals and Boards operating in Queensland, of which only 4 operate under Commonwealth legislation. There are probably other Tribunals and Boards of which we are unaware at this stage. Eleven Tribunals are represented here today.

¹ Western Australian Civil And Administrative Review Tribunal Taskforce Report May 2002

WHAT IS REQUIRED

We require a tribunal system that is modern, accessible, efficient and cost effective. How do we achieve that outcome?

Should we establish a new tribunal each time a need arises?

Is it best to have a multiplicity of tribunals, each with a different structure, different funding levels from different sources, members with different remuneration levels, some with full-time members but others with a large number of part-time sessional members? What is the most efficient and effective way to run our tribunal system?

The trend in Victoria, New South Wales and most recently in Western Australia has been amalgamation to improve the operation of the tribunal justice system by streamlining administrative structures, increasing flexibility, and improving the operation of tribunals.

Interestingly the Western Australian Task Force Report went on to say:

“The separate development of existing tribunals and boards ...not only would be costly, but also would not be guaranteed to succeed. Moreover, any such attempt would be likely to result in significant overlaps and unnecessary additional financial expenditure.”

Western Australia is now implementing a State Administrative Tribunal based on the VCAT model and co-locating other tribunals with the SAT where it considers that they would not benefit from amalgamation.

While the QBT, PAMDT, RVT, LAT and RAA have now been co-located and the Childrens' Services Tribunal has been co-located with the Land and Resources Tribunal, most administrative tribunals in Queensland operate in a self-contained way, each quite separate and independent from the other, using different practices and applying different standards.

Each administrative tribunal has tended to develop according to its own model. They are located at multiple locations around the city and administratively responsible to a variety of Departments whose core function, in the main, is not running Tribunals.

Should Queensland co-locate Tribunals for the convenience of the public accessing tribunals? Should Queensland seek to maximise the economies of scale in relation to the appointment of members, the training of members, the development of best practice, and the provision of physical accommodation and information technologies? Should there be a purpose built Tribunals building?

Who should be responsible for Tribunals?

The UK Leggatt Report² recommended the transfer of responsibility for the operation and administration of tribunals to the equivalent of the Department of Justice and the Attorney-General, with the creation of a Tribunals Service in parallel with, but serving distinct purposes from, the Courts Service.

The UK Council on Tribunals, in its response to the Leggatt Report, said of this recommendation:

Such an arrangement would ensure the actual and perceived independence of tribunals from those whose decisions are challenged; clarify tribunals' position as part of the judicial arm of the state, not as an instrument of policy; and provide a framework in which the low priority too often afforded to tribunals could be consistently addressed. It would offer the potential of an integrated and coherent service for users; better career structures for chairmen (chairpersons), members and staff; improved provision and use of proper tribunal hearing facilities; greater consistency in tribunal administration, procedure and practice; and more structured and effective feedback from tribunal experience to the improvement of first-tier decision-making.

This process commenced in Queensland with the transfer of responsibility for the Dairy Industry Tribunal, the Fisheries Tribunal and the Meat Industry Tribunal to Crown Law, as opposed to a new Tribunals Division, in the Department of Justice and the Attorney-General. The Childrens Services Tribunal is also administered by the Department of Justice and the Attorney-General.

Recently the tribunals within the Portfolio of Tourism Racing and Fair Trading were co-located with a view to amalgamation. The Director-General of Tourism Racing and Fair Trading is now responsible for the financing and the administration of these tribunals which review decisions made by him and his staff. Should they be transferred to the Department of Justice and the Attorney-General?

The State Chapter of COAT is being established to provide a forum where Tribunal members can meet and discuss these and other issues of relevance to their work in order to improve their ability to carry out their responsibilities as Tribunal members.

Council of Australasian Tribunals (COAT)

² Report of the Review of Tribunals by Sir Andrew Leggatt: [Tribunals for Users - One System, One Service](http://www.tribunals-review.org.uk) [published 16 August 2001] and available at <http://www.tribunals-review.org.uk>

COAT was established at a meeting of Commonwealth, State, Territory and New Zealand heads of Tribunals on 6 June 2002. At that meeting, presiding officers adopted the COAT Constitution and elected office holders to the COAT Interim Executive. The Hon Justice Murray Kellam (President, VCAT) was appointed as Chair and Mr Steve Karas OAM (Principal Member, Migration Review Tribunal and Refugee Review Tribunal (Cth)) was appointed as Deputy Chair. I was appointed as a Member of that Interim Executive.

The COAT Constitution is in the Administrative Review Council (ARC) publication "Report on the Council of Australasian Tribunals" at page 21 and on the COAT website at <http://www.coat.gov.au>.

COAT has both a National Council, which comprises the executive and member tribunals, and State and Territory Chapters.

Any Tribunal that is supportive of the objects of the Council is eligible for membership of the Council.

"Tribunal" is defined broadly to mean any Commonwealth, State or Territory body whose primary function involves the determination of disputes, including administrative review, party/party disputes and disciplinary applications but which in carrying out this function is not acting as a court;

Membership of the State Chapter is open, by invitation of the National Council or Members of the Chapter, to any person ordinarily resident in Queensland who is :

- (a) a member of a Tribunal that is a member of the Council; or
- (b) a practitioner, academic, student or other person interested in the work of the Council.

In short, the aim is to establish a national network of Tribunals to enable members of Tribunals to consult and discuss areas of concern or interest and common experiences and to provide training and support for members of Tribunals.

The Objects are set-out in full at page 22 of the ARC publication. You will notice the reference at (f) and (g).

I would now like to introduce the Attorney-General for Queensland, Mr Rod Welford to open the Seminar.

Hon. Rodney WELFORD, MP is the Member for Everton (Member for Stafford 1989-1992)

Attorney-General and Minister for Justice from 22 February 2001.

Minister for Environment and Heritage and Minister for Natural Resources 29 June 1998 - 22 February 2001.

- Bachelor of Arts (First Class Honours);
- Bachelor of Laws;
- Graduate Diploma in Legal Practice;
- Graduate Diploma in Industrial Relations; and
- Master of Science in Environmental Management in 2001.

His interests include swimming and lifesaving, environment and energy policy, philosophy, law reform, industrial relations, constitutional issues.

His Tribunal Responsibilities are:-

- The Anti-Discrimination Tribunal
- The Guardianship and Administration Tribunal
- The Land Resources and Tribunal
- The Children Services Tribunal
- The Dairy Industry Tribunal
- The Fisheries Tribunal and
- The Meat Industry Tribunal

Please welcome Mr Welford