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# **DEVELOPMENT OF COAT TRIBUNALS' MODEL PRACTICE MANUAL**

**[Please note - this is an edited version of this report.  
This version has been prepared for the Seventh  
Australian Institute of Judicial Administration  
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# DEVELOPMENT OF COAT TRIBUNALS' MODEL PRACTICE MANUAL

## EXECUTIVE SUMMARY

The Administrative Appeals Tribunal (AAT) and Council of Australasian Tribunals (COAT) have commissioned this consultancy to undertake some preliminary work relating to the development of bench books for the AAT and COAT.

The scope of this preliminary work relates to undertaking a rapid training needs assessment, identifying audiences and proposing educational objectives for these bench books, settling draft tables of contents, presenting model sections and providing advice on production arrangements, as outlined in the terms of reference.

The work undertaken has comprised consulting representatives of tribunals in interviews, circulating a training needs questionnaire, and conducting two workshops in Melbourne and Sydney on 22 and 23 April 2004 respectively. A number of tribunals have generously provided detailed information on their roles, membership composition and training needs, and have supplied copies of members' manuals and other professional development materials. Samples of bench books have also been gathered from courts in Australia, with the assistance of the Judicial Commission of New South Wales, as well as internationally from the United Kingdom, the United States and beyond. The earlier findings of the AAT's national training needs assessment have been reviewed, and the AAT has provided relevant information on the current profiles of a range of tribunals in both Australia and New Zealand, including caseloads, membership, professional development activities and resources.

As a result of these consultations, it is possible to develop a range of recommendations for the consideration of the AAT and COAT on the development of bench books, which are outlined in this report. These recommendations relate to the aim, table of contents and content of the bench books - which it is proposed be called the *Tribunals' Model Practice Manual* - structure and style, position in any broader program of continuing professional development, preparation, production, publication and budget of the bench books. The report also provides for consideration some samples drawn from existing resources of Australasian tribunals and other institutions.

A number of related issues are raised for consideration, for example, the usefulness for COAT to undertake a more detailed assessment of its members and the need for a comprehensive program of continuing professional development. Other issues include arrangements for updating bench books, selection of publishing media and electronic publication, and the roles of member organizations in supplementing the bench book on an institution-by-institution basis.

It is hoped that this report provides the means for the AAT and COAT to address these issues expeditiously and effectively.

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Director,  
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## RECOMMENDATIONS

It is recommended that:

1. COAT publishes a *Tribunals' Model Practice Manual* (hereafter: practice manual).
2. the practice manual aim to establish, promote and support a universal benchmark standard of competence and best practice for all tribunal members, on a one-size-fits-all basis, having regard to the needs for induction and continuing professional development of members, whether law-trained or otherwise.
3. the practice manual aim to provide a readily accessible generic “how to do it” guide to assist members to undertake their duties including hearings effectively, and should be clearly differentiated from a legal monograph, text book, encyclopedia, or members terms-and-conditions manual.
4. the practice manual be written on the basis that members may not have ready access to ancillary training and professional development resources.
5. the practice manual be structured in three parts: (a) generic principles of tribunal processes – to be produced by COAT, (b) jurisdiction specific applications for each tribunal – to be produced by each tribunal, and (c) personal notes – to be compiled by each member, as required.
6. the content of part (a) *Principles of Tribunal Processes* of the practice manual be written as outlined in the revised table of contents.
7. the approach and style of the practice manual combine a succinct comprehensive overview of law and procedure which provides readily-accessible and practical explanations of “what to do and how to do it”, together with checklists and references to primary resources, and be written in plain language.
8. the practice manual build on existing tribunal materials to the extent possible and appropriate.
9. COAT considers adopting the Social Security Appeals Tribunal Members' Handbook and the Workers Compensation Commission of NSW Arbitrator's Manual as models.
10. the practice manual be written by an expert, and supported by an editor, appointed by COAT's Bench Book Sub-Committee.
11. COAT supports the distribution of the practice manual with the provision of a train-the-trainer workshop for tribunals, if required.
12. COAT develops a cost-recovery strategy taking into account subscription, public sale and sponsorship options.
13. COAT publishes soft and hard editions of the practice manual.
14. COAT endorses the draft production schedule.
15. COAT considers undertaking an assessment of tribunals to identify (a) eligible organizations, (b) their jurisdictions and roles, and (c) composition of members.
16. COAT considers developing professional development programs for members including (a) conducting a training needs assessment, (b) developing a targeted training strategy with priorities, and (c) providing train-the-trainer course(s).

# DEVELOPMENT OF COAT TRIBUNALS' MODEL PRACTICE MANUAL

## INTRODUCTION

This report provides advice to COAT as specified in the terms of reference which, in summary, relate to:

- 1 Training needs assessment, audience identification and educational objectives for Tribunal and COAT bench books
- 2 Table of contents of the Tribunal and COAT bench books
- 3 Draft model section(s) of COAT bench book
- 4 Production of the COAT bench book.

## 1 TRAINING NEEDS ASSESSMENT, AUDIENCE IDENTIFICATION AND EDUCATIONAL OBJECTIVES FOR TRIBUNAL AND COAT BENCH BOOKS

### 1a Methodology and findings of needs assessment

The methodology for undertaking this consultancy was determined by the time and opportunity available to develop a proposal for the Australian Institute of Judicial Administration Tribunals' Conference on 10 June 2004. Noting the diversity and dispersion of the national tribunal membership, efforts have been made to make consultations as inclusive as possible in the time available. This methodology has included the following elements:

- Consultations with tribunal members in interview.
- Consultations with tribunal members in two workshops held in Sydney and Melbourne on 22-23 April – including representatives from the AAT, Social Security Appeals Tribunal (SSAT), Victorian Civil and Administrative Tribunal (VCAT), Administrative Decisions Tribunal (ADT), Migration Review Tribunal (MRT), Refugee Review Tribunal (RRT), Consumer, Trader and Tenancy Tribunal (CTTT), Workers Compensation Commission (WCC), Guardianship Tribunal (GT), Intellectual Disability Review Panel (IDRP) and Mental Health Review Board (MHRB) among others.
- Survey of workshop participants and other members.
- Global appraisal of bench book models: hardcopy and online – including Australia, Britain, United States and beyond.
- Review of findings and detailed analysis of national members' training needs assessment of AAT (1992).

In order to assess the needs of the national tribunal membership in Australia and New Zealand, it is first necessary to ascertain the nature and characteristics of those memberships. Inquiries with the Administrative Review Council and other bodies were unable to provide definitive information. What is however clear is that there are a great many tribunals, and that they are characterized by their diversity. Some are large, with hundreds of members many of whom are fulltime and well supported with libraries, intranets and training programs; while others are very small, with few members who are part-time, and lack the benefits of many professional supports. This diversity is illustrated in the profiles of some Australasian tribunals collated by the AAT during this consultancy, below.

## PROFILES OF SOME AUSTRALASIAN TRIBUNALS

### Information on Caseload, Membership, Professional Development Activities and Resources

(Compiled by the Administrative Appeals Tribunal – April 2004)

Name	No. of applns lodged 2002/03	No. of Members		% Law-Trained	Non-Law-Trained Members Sit Alone (Y/N)	Location(s) (% of Members outside capital cities)	Professional Development/Resources (Y/N)						
		FT	PT				1	2	3	4	5	6	7
Administrative Appeals Tribunal	7766	19	55	65	Y	Federal	Y	N	Y	Y	Y	Y	Y
Administrative Decisions Tribunal	766	2	138	48	N	NSW	Y	Y	Y	Y	Y	Y	Y
Children's Services Tribunal	59	0	14	22	N	Queensland	Y	Y	Y	N	Y	N	N
Commercial and Consumer Tribunal*	964	2	22	63	N	Queensland	Y	Y	N	Y	N	N	Y
Consumer Trader & Tenancy Tribunal	61697	25	106	80	Y	NSW (40% outside CBD)	Y	Y	Y	Y	Y	Y	Y
Dental Practice Board of Victoria	144 complaints	0	11	9	Y	Victoria	N	N	Y	Y	N	N	N

(\*The Commercial and Consumer Tribunal was only established on 1 July 2003. The applications lodged figure comprises applications lodged in its predecessor organisations.)

#### Legend for Professional Development/Resources

1 = Induction Program; 2 = Manual/Guide on Tribunal Work; 3 = Bulletin/Updates; 4 = Regular Conference/Members Meetings;  
 5 = Professional Development Seminars/Materials; 6 = Intranet/Extranet with Resources for Members;  
 7 = Legal/Library/Research Assistance.

Name	No. of applns lodged 2002/03	No. of Members		% Law-Trained	Non-Law-Trained Members Sit Alone (Y/N)	Location(s) (% of Members outside capital cities)	Professional Development/Resources (Y/N)						
		FT	PT				1	2	3	4	5	6	7
Discrimination Tribunal	12	0	9	100	N/A	ACT	N	N	N	Y	N	N	Y
Government and Related Employees Appeals Tribunal	51	2	430	Not known	N	NSW	N	N	N	Y	Y	N	Y
Greyhound Racing Appeals Tribunal	10	0	2	100	N/A	NSW	N	N	Y	N	Y	N	N
Guardianship Tribunal	4191	2	60	31	N	NSW	Y	Y	Y	Y	Y	N	N
Human Rights Review Tribunal (NZ)	58	-	14	43	N	New Zealand	N	N	N	N	N	N	N
Intellectual Disability Review Panel	23	0	31	19	Y	Victoria (26% outside CBD)	Y	Y	N	Y	Y	N	Y
Industrial Relations Commission of South Australia	1938	10	-	60	Y	SA	Y	Y	Y	Y	Y	Y	Y
Lands and Mining Tribunal	66	1	-	100	N	Northern Territory	N	N	N	N	N	N	N
Mental Health Review Board of Victoria	11506	1	84	34	N	Victoria	Y	Y	Y	Y	Y	Y	Y
Mental Health Review Tribunal	428	1	26	22	N	Tasmania	Y	Y	Y	Y	Y	?	Y
Migration Review Tribunal	8856	14	54	75	Y	Federal	Y	Y	Y	Y	Y	Y	Y
National Native Title Tribunal	60	8	6	64	Y	Federal	Y	Y	Y	Y	Y	Y	Y
Refugee Review Tribunal	4877	39	42	55	Y	Federal	Y	Y	Y	Y	Y	Y	Y
Social Security Appeal Authority (NZ)	~300	-	3	33	N	New Zealand	N	N	Y	N	N	Y	Y
Social Security Appeals Tribunal	9576	25	119	40	Y	Federal	Y	Y	Y	Y	Y	Y	Y

Name	No. of applns lodged 2002/03	No. of Members		% Law-Trained	Non-Law-Trained Members Sit Alone (Y/N)	Location(s) (% of Members outside capital cities)	Professional Development/Resources (Y/N)						
		FT	PT				1	2	3	4	5	6	7
Veteran's Review Board	6179	1	44	48	N	Federal	Y	Y	Y	Y	Y	Y	Y
Victorian Civil and Administrative Tribunal	87107	40	140	70	Y	Victoria	Y	Y	N	Y	Y	N	Y
Victorian Institute of Teaching	26 <sup>^</sup>	–	36	11	Y	Victoria	Y	Y	N	Y	Y	N	Y
Workers Compensation Commission*	9282	4	90 + 200	90 + 0	Y	NSW (15% not in/near CBD)	Y	Y	Y	Y	Y	Y	N

(<sup>^</sup> The Institute's disciplinary powers took effect from 1 January 2003. This figure relates to the six month period from 1 January 2003 to 30 June 2003.

\*In relation to the Workers Compensation Commission, there are 90 part-time arbitrators and 200 part-time medical practitioners who are members of the Commission. Further, the figure of 9282 applications lodged relates to the 2003 calendar year.)



Although it is difficult to comprehensively identify the needs for a bench book in the absence of definitive information on the size and nature of tribunal membership, the methodology for this consultancy has been selected to address this difficulty by (a) consulting members as much as possible in the time available, and (b) reflecting on what data may be relevant and applicable from the findings of the national training needs assessment of the AAT in 1992. This methodology also recognized that the AAT membership and needs are not necessarily representative of those of the Australasian tribunal membership, and that the nature of those needs may have changed over time.

### **1a(i) – Responses to Tribunals' Questionnaire**

The questionnaire was pre-circulated to participants of two workshops organized for tribunal members in Melbourne on 22 April and in Sydney on 23 April 2004. A total of 18 questionnaires were completed by participants. Participants comprised 22 representatives from 12 larger city-based tribunals. There were multiple responses from some tribunals. Some responses were completed by representatives who are members of more than one tribunal. While efforts were made for these workshops to be as inclusive as possible, it is recognized that responses predominantly reflect the views of fulltime members of larger CBD-based tribunals and, in the time available, may not comprehensively represent the full diversity of the membership of tribunals. To this extent, the responses are indicative rather than representative.

Respondents represented a range of tribunals able to attend these workshops in Melbourne and Sydney ranging in size from the largest comprising approximately 300 members and panel experts to the smallest of 22 mainly part-time members. Most respondents represented larger organizations with total memberships in the range of 65-150 members.

Respondents identified a range of needs for professional development, generally, as listed seriatim below:

*Information* – Legislation; jurisprudence; legislative changes, case law and practice/procedure; detailed 'how to' approach to specific questions; legislative guides, basic generic information on conducting hearings, procedural fairness, writing decisions, party-party v 1-person tribunals; legislative updates, general principles of fairness; widely varying; legal updates, hearing management; natural justice and procedural fairness; administrative review generally, hearing procedures, case-specific issues; procedure, standard of proof, rules of evidence; administrative law and its principles, rules of evidence.

*Skills* – Questioning, analysis, writing, decision-making; decision-writing, conduct of hearings, time/list management; dealing with interpreters, unrepresented applicants, pushy lawyers; mediation/conciliation, case management, communication, legal research, conduct of proceedings, reason writing, medical issues; time management; confidence developing for non-lawyers; conducting hearings, giving decisions, writing and giving reasons; awareness of issues, facing people with disabilities; running a hearing, dealing with time constraints in evidence gathering, hearings; decision-writing, delivery of oral reasons; evidence gathering, interviewing skills; control of hearings, evaluate legal arguments, questioning; running hearings, writing clear reasons for decisions, working with interpreters.

*Attitudes/outlook* – Intercultural, interpersonal; collegiate and organisational responsibility; non-legalistic, non-adversarial, ethics, gender and cultural awareness; control, dealing with unrepresented parties; build confidence; listening skills, cultural diversity, role of ‘therapeutic jurisprudence’.

Respondents were then asked to describe the level of membership experience most likely to need/benefit from a bench book as being, and responded in the following order:- (53.7%) 0-2 years, (53.7%) 3-5 years, (24.1%) 6-10 years, (13.9%) 11+ years; that is, respondents rated 0-5years most highly.

Respondents were also asked to rank in order of priority the ideal pitch for the bench book, and responded as follows:- (29.6%) induction, (68.52%) continuing/update, (29.6%) specialist/advanced, (18.5%) refresher; that is, respondents ranked continuing/update most highly.

Respondents identified topics to be included in the contents of the bench book, specifically, as listed seriatim:-

Decision writing, decision making models; tribunal-specific procedures and requirements; relevant aspects of administrative law; conduct of hearings, writing decisions, use of information; decision-writing, principles on adjournments, extensions of time, procedural fairness, bias, costs, *functus officio* and *res judicata*, privilege, practical application of rules of evidence; best practice with interpreters; standards of proof; procedural fairness; fact-finding, decision-writing, bias, setting aside summons; conducting hearings, adjournments, privilege, bias, making decisions, amending documents, relevance and evidentiary objections, writing reasons, representation; procedural fairness; giving oral reasons, interpreters; natural justice, bias; natural justice, procedural fairness; bias/disqualification, running a hearing, privilege, hearing rule/procedural fairness; feeling comfortable sitting as member - procedure and control; running hearings, administrative law principles, statements of reasons.

Overall, there was a marked consensus in responses to the survey, interviews and workshop discussions that the content of the bench book should focus on assisting members to do the job – that it should be a practical “*how to do it*” manual.

### **1a(ii) Principal findings of AAT national training needs assessment**

The above responses are consistent with the findings of the national training needs assessment conducted by the AAT in 1992. This very detailed assessment provided a wealth of information on the professional development needs of tribunal members.

The assessment comprised a number of elements including: analysis of management data provided by the President of the Tribunal, annual reports of the Tribunal, and extensive consultations with key stakeholders of the Tribunal; a members' workshop at the annual conference; numerous interviews with members and with client representatives in Canberra, Melbourne, Brisbane and Sydney; and a national survey of all members.

Statistical analysis of the findings disclosed a diverse range of professional development needs of members. Interestingly, the nature of these needs was influenced significantly by a number of factors including the *role* of member (presidential: President, Judges and Deputy Presidents; or non-presidential: Senior Members or Members), *qualifications and experience* (law trained or non-law trained), *nature of appointment* (full time, part time or sessional), *seniority*

(inexperienced or experienced), and *registry* (size of registry and geographic location).

In essence, the AAT research disclosed that the needs of members may vary depending on their role, qualifications, nature of appointment, tribunal and registry.

This information on the nature of needs of AAT members may provide a range of relevant insights on the needs of Australasian tribunal members in developing bench books.

Pending COAT conducting an assessment of its membership, it is speculative to differentiate the relative needs of members of the AAT and COAT, and their possible implications for the design of bench books. But, at this stage, what can be said is that (a) AAT membership and needs are not necessarily representative of COAT membership and needs, and (b) there is a potential diversity of COAT membership needs that impels a more generic treatment in any COAT bench book compared to an AAT bench book. The implications of this distinction will be addressed later in this report.

## **1b Audience**

When the question “*who is the readership*” was asked in workshop consultations, the most common answer was “all” members. Participants at the workshops would prefer the practice manual to be designed for use by members of all levels of experience and qualifications. Interestingly, this is at variance with insights provided in interviews for this consultancy. A number of interviewees expressed robust views that the needs of law and non-law-trained members were disparate. This corresponds with the findings of the AAT assessment, where nature of qualification was a statistically significant variable of perceptions of needs.

As already discussed, at the present time it is difficult to comprehensively define the composition and nature of the national tribunal membership or its training needs for which the bench book should be written. We do have some information on the existing member organizations, and we have some access through this consultancy on the training needs of some of these organizations, specifically those represented in workshop consultations. As seen from the profiles of tribunals, it is already clear that there is substantial diversity in the nature and needs of national tribunal membership. Tribunals vary quite significantly in their jurisdictions and roles, structure and size, membership composition, resources, operations and locations. Some are very large with literally hundreds of members, many of whom form a fulltime cadre with extensive formal and informal support systems of libraries, intra/extranets, publications and bulletins, seminars, networking and mentoring. Others are very small, essentially part-time, and highly dispersed. Indeed, in some national tribunals, each registry is described as having a different ‘culture’, and is known for doing things differently. So, it is clear that the needs of any Australasian membership are quite diverse and disparate.

Available information on COAT membership and needs is not yet comprehensive in terms of either its depth or the scope of consultations with member organizations, specifically those not represented in these consultations owing to lack of opportunity to participate in the time available. Ironically, it is likely that the greatest needs for a tribunal bench book may exist in those bodies which were unable to be represented in consultations owing to their small size, remote locations, lack of resources or part time nature. For this reason, it would be useful for COAT to take early steps to define its membership – and potential members – and its training needs.

*It is recommended that COAT undertake an assessment of tribunals to identify (a) eligible organizations, (b) their jurisdictions and roles, and (c) the composition of members.*

*It is recommended that COAT develop professional development programs for members including (a) conducting a training needs assessment, (b) developing a targeted training strategy with priorities, and (c) providing train-the-trainer course(s).*

*a Qualifications – law and non-law trained*

A consistently significant variable in the analysis of AAT needs related to whether members were law trained or non-law trained. This is because these members bring extensive but different repertoires of expertise and experience with them to their roles.

While recognizing that both law and non-law trained members each have distinctive expertise required for tribunal duties, does COAT see any special need to focus support on assisting non-law trained members with aspects of administrative process?

Some respondents expressed strong views that the roles and needs of law and non-law trained member were so fundamentally different that they could not be aggregated and must be addressed separately. There was however a broader philosophic consensus in consultations that the practice manual should be directed to all members – irrespective of training or experience – and promote a universal standard of competency, or a national best practice standard, irrespective of whether members were law-trained or not. In this sense, the needs of law trained and non-law trained members to conduct a hearing at a certain standard of competency is universal, and it is the role of the practice manual to ensure this standard is defined and supported. That said, this consensus does also accommodate a recognition that training needs may converge but are not identical, and that points of departure may be different depending on the nature and level of pre-existing training and experience of members.

*b Seniority – extent of experience*

Another focus of discussion in consultations was the level of experience of the primary audience and, again, *can one size fit all?* In effect, can a bench book aim to address the needs of new as much as experienced members? Some interviewees expressed the view that the manual should as a matter of priority focus on the needs of new members, as they may have acute needs of induction which otherwise may go unmet. But there was not a consensus on this. Interestingly, while respondents to the questionnaire generally agreed in question 11 that the level of experience of members in the 0-2 year and 3-5 year categories were equally most likely to need/benefit from a bench book (53.7%), they nonetheless in response to question 12 differentiated that the ideal pitch for the bench book should be at the continuing/update level (68.52%). More detailed discussion in consultations revealed a consensus that while the induction needs of new members may be acute, they should not be the primary objective of the bench book, though it may play a role with induction training in addressing that need. In effect, respondents did agree that ‘one size should fit all’ in terms of the pitch of the manual setting the best practice benchmark at about the 5 years of tribunal experience level.

The more detailed AAT analysis indicated that significant variations may exist in the needs of members as defined by the nature of appointment, size of registry and geographic location, and nature of role. Although there is insufficient tribunal membership information available on which to offer specific recommendations at this time, refinement of this aspect can be revisited by COAT in due course.

### ***Availability of other training support***

A critical consideration on the needs for the practice manual, and the role which it should serve, is the extent to which members may have access to other professional development support, for example, induction training, ongoing seminars, mentoring and continuing education and update bulletins. As illuminated in the profile of tribunals, some tribunals already have practice manuals - by a variety of names – and other professional development supports, but many others do not. In the absence of definitive data on ancillary resources, it may be more prudent to assume a lack of related training and publications.

As has been noted earlier, the national membership is diverse and operates with a potentially wide variation in ancillary supports and available professional development programs in larger and small tribunals. Under these circumstances, it is appropriate that the manual should while setting standards of best practice for all members have particular regard to assisting those members with limited access to other professional supports.

*It is recommended that* the practice manual be written on the basis that members may not have ready access to ancillary training and professional development resources.

### ***Role of each tribunal to adapt and/or modify***

Connected to this consideration is the related issue of defining the role each tribunal should exercise with the model practice manual. In addition to providing whatever induction and continuing training for members may be possible using the bench book, tribunals have a choice of either modifying the contents to suit their jurisdiction needs or supplementing the materials with jurisdictionally-specific material. This issue is addressed later in this report relating to the structure of the bench book.

A further issue relates to the mandate of COAT to represent tribunals in both Australia and New Zealand. At a technical level, it is recognized that pitching the narrative on jurisprudence and procedures in Part A at a common level renders the level of discussion to the relatively generic. Addressing the need for technical specificity can be undertaken by tribunals adapting Part B to focus on jurisdiction specific considerations in due course.

## **1c Educational aim and objectives**

In light of the above discussion of the needs of tribunal members, it is now timely to consider how the bench book should address those needs. In general terms, the aim of a tribunal bench book should be to contribute to improve the quality of decision-making by helping tribunal members to acquire the tools for professional competence. The concept of competence illuminates the issue of what makes a good tribunal member. It includes mastery of theoretical knowledge, developing functional performance and problem-solving capacity, and developing ethical practice.

Of topical interest, it is noted that the British Judicial Studies Board has recently defined a framework of 6 headline competencies for tribunal members, being: law and procedure, equal treatment, communication, conduct of hearing, evidence and decision-making – for more information see <<http://www.jsboard.co.uk/>>.

At an operational level, the goals and objectives of professional development are to meet the education, training, and development needs of tribunal members. These needs have been provisionally defined above and should be addressed in the bench book providing a readily accessible “*how to do it*” manual to assist members to undertake their duties including hearings.

*It is recommended* that the practice manual aim to establish, promote and support a universal benchmark standard of competence and best practice for all tribunal members, on a one-size-fits-all basis, having regard to the needs for induction and continuing professional development of members, whether law-trained or otherwise.

*It is recommended* that the practice manual aim to provide a readily accessible generic “*how to do it*” manual to assist members to undertake their duties including hearings effectively, and should be clearly differentiated from a legal monograph, text book, encyclopedia, or members terms-and-conditions manual.

### **Developing a professional development program**

Planning a bench book falls within the broader task of developing a professional development program approach for the members of Australasian tribunals. This will involve three major elements:

1. *Needs assessment* – first, a comprehensive training needs assessment should be undertaken at the earliest opportunity. The support provided by any bench book, or broader program of continuing professional development, is determined by need. An additional factor which influences this process is the availability of resources – notably existing tribunal bench books and materials.
2. *Educational strategy* – second, a step-by-step training strategy should be devised to match and rank training priorities to needs in a planned manner. This strategy could usefully include the introduction of educational goals and objectives, a cycle of annual training plans comprising pre-service and in-service programs, the formulation of policies and standards, and take account of the relationship of the practice manual to other available training services.
3. *Training of trainers* – third, this strategy should highlight the creation and development of institutional capacity within the membership itself through the provision of train-the-trainer courses.

*It is already recommended that* AAT and COAT develop professional development programs for members including (a) conducting a training needs assessment, (b) developing a targeted training strategy with priorities, and (c) providing train-the-trainer course(s).

## 2 TABLE OF CONTENTS OF COAT BENCH BOOK

### Contents

The contents of the COAT bench book is determined by the assessment of members' needs, which have already been outlined above, and the means available to address those needs in a bench book and ancillary professional development programs.

As already discussed, the content should relate to the law, practice and procedure needed by tribunal members to perform their duties including hearings effectively on a day to day basis. That said, the contents should not be too time-specific or require frequent revision, as this is the role of a bulletin or other update service. Importantly, the contents of the bench book should not be esoteric or confused with a legal monograph, text, journal of articles or encyclopedia. Nor should it perform the role of a members' handbook dealing with matters relating to terms and conditions of appointment, duties, entitlements, remuneration or leave.

Overall, there was a consensus in consultations that the bench book should address generic issues pertaining to the principles of tribunal processes pitched at a level relevant for members with about 5 years of tribunal experience, as outlined above. The rationale for this approach is to maximize relevance and utility to the broader membership. Balanced against this approach, however, some members expressed concerns at whether a generic service would be so basic and general for a national membership that it served very little useful purpose in any particular situation.

This concern legitimately highlights the tension between balancing the general and specific approaches: as the manual becomes more general for a broader readership, so it becomes less useful in any specific instance; conversely, the more specific the references, the narrower the readership to be addressed. Ultimately, setting this balance is a matter of policy for COAT. At a more technical level, this balance can be attained by structuring the manual in parts to separate foci on generic principles and their jurisdiction-specific application.

### Structure

As discussed, there was generally a consensus that any practice manual should explain to members "*how to do it*", be generic rather than jurisdiction-specific in order to canvas the needs of the membership. In consultations, interviewees were comfortable with the framework for the bench book comprising three major components: (a) generic section of core principles of tribunal processes – to be prepared by COAT, (b) jurisdiction-specific section on the jurisprudence, major laws, cases and procedures, of each tribunal – to be prepared by respective tribunals, and (c) a section for the particular notes of members – to be prepared by each individual.

*It is recommended that* the practice manual be structured in three parts: (a) generic principles of tribunal processes – to be produced by COAT, (b) jurisdiction specific applications for each tribunal – to be produced by each tribunal, and (c) personal notes – to be compiled by each member, as required.

A proposed table of contents for the bench book, or model practice manual, is outlined below which builds on the table of contents developed by the COAT Bench Book Committee, together with the insights provided from consultations with members:-

# COUNCIL OF AUSTRALASIAN TRIBUNALS MODEL PRACTICE MANUAL

Chair's introduction  
Reader's guide  
Index  
Glossary  
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## **PART A – PRINCIPLES OF TRIBUNAL PROCESSES (COAT)**

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  - Identifying the issues
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- Diversity - cultural, linguistic and other issues affecting communication and participation

## **9 Case-flow Management**

- Principles of file, diary and case-flow management
- Adjournments
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- Techniques of delay and backlog reduction

## **10 Conduct**

- Conduct in/outside tribunal
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## **11 References**

- Links to useful websites
- Relevant texts/materials

## **PART B – JURISDICTIONAL GUIDE** *(Each Tribunal)*

- Jurisdiction, powers and functions of tribunal
- Extracts of key statutes, regulations, rules and procedures, practice directions, policy documents, notices, guidelines and time standards
- Selected case law, major tribunal decisions, commentaries, references to texts/articles
- “How to” guidelines to common and/or difficult applications
- Hearing procedure checklists
- Template forms, decisions and orders
- Library resources, tables, bulletins

## **PART C – PERSONAL NOTES** *(Each member, as required)*

- Selected precedents, guidelines, updates, notes.

*It is recommended that the content of part (a) Principles of Tribunal Processes of the practice manual be written as outlined in the revised table of contents.*

### **Style**

There was also a consensus that the practice manual should be just that. The style of the publication should be simple, brief and enable ready access and reference. Its style should be pithy, with succinct summaries of selected law and procedures, key issues to be addressed, and checklists.

*It is recommended that the approach and style of the manual in Part A Principles of Tribunal Processes combine a succinct comprehensive overview of law and procedure which provides readily-accessible and practical explanations of “what to do and how to do it”, together with checklists and references to primary resources, and be written in plain language.*

### **Name**

A number of tribunal members in consultations observed that the name “bench book” was inappropriate in connoting a courts’ model or a judicial approach. It was suggested that a more appropriate name might be: practice guide, or practice manual, or the like. Those consulted agreed with this approach.

*It is recommended that COAT publishes a “Tribunals’ Model Practice Manual”.*

### 3 DRAFT MODEL SECTION(S) OF COAT BENCH BOOK

A review of existing tribunal's practice manuals in Australia as well as other bench books around Australia, the United Kingdom, United States and beyond reveals a variety of approaches.

In essence, there are two major approaches: (a) comprehensive narrative – this version provides the reader with a condensed practical overview of the relevant law and procedure, and can be used as a stand-alone “*how to do it*” manual; and (b) selective reference – this version provides the reader with key issues, references and checklists for use with primary sources such as legislation and case law. Within these broad approaches, styles range widely from discursive passages of text to bullet-points, tables, checklists and flow charts. Language can also range from technical to plain.

While it is possible for the national model practice manual to adopt a combination of approaches, styles and language, this selection should address the fundamental questions “*who is the readership, and what is its needs?*” Broadly, these questions can be answered by reference to the specific aim and purpose of the manual, the qualifications of the readership - whether it is law or non-law trained or both; and its experience - whether it is intended as induction or continuing levels, as already discussed. Some approaches are tabulated below.

<i>Institution</i>	<i>Topic Extract</i>	<i>Approach/Style</i>
Workers Compensation Commission of NSW	Evidence	Comprehensive, textual; moderately technical; key issues; checklists; stand-alone
Victorian Civil & Administrative Tribunal	Natural Justice	Selective; moderately technical; key issues
Social Security Appeals Tribunal	Hearings	Comprehensive, textual; non- technical; plain language; stand-alone
Refugee Review Tribunal	Invitation to Provide Additional Information	Comprehensive; moderately technical; tabulated guidelines
Supreme Court NSW	Child Witness	Selective; very technical; reference to primary sources
Local Court NSW	Children’s Court	Selective; very technical; reference to primary sources; tabulated guidelines
Judicial Studies Board (UK)	Equal Treatment	Comprehensive; lay, non-technical, plain language; checklists; stand-alone
Judicial Studies Board (UK)	District Judges Criminal Procedure	Selective; technical; ‘aide memoire’, annotated provisions + key cases; on-line
District Judges, Missouri (USA)	Juvenile Law & Practice	Procedural checklists; non-technical, plain language.

As a matter of general principle, it is very useful and appropriate for the manual to build on the body of existing materials presently already being used within the actual tribunal membership because (a) this is authentic, (b) it will build ownership and use, and (c) it is the most cost effective means of development.

*It is recommended that* the manual build on existing tribunal materials to the extent possible and appropriate.

In relation to the question of style, a more detailed analysis of these models, in terms of how they may illustrate addressing the question “*who is the readership, and what is its needs?*” is illuminating. The profile of Australasian tribunals indicates that the readership will comprise a possibly evenly-split population of law and non-law trained members, spanning a spectrum of professional and managerial experience, performing a range of functions across the diverse universe of tribunal jurisdictions. As discussed, there was a consensus that the practice manual should promote a universal benchmark standard of competence for all tribunal members, having regard to the needs for induction and continuing professional development of members. For this reason, it has already been recommended that the approach and style of the practice manual combine a succinct comprehensive overview of law and procedure which provides readily-accessible and practical explanations of “what to do and how to do it”, together with checklists and references to primary resources, and be written in plain language.

Two models made available during this consultancy, in particular, conform to these audience parameters and needs, and warrant consideration by COAT. These are the SSAT Members Handbook, and the Workers Compensation Commission NSW Arbitrator’s Manual, both of which are extracted as annexes to this report. The SSAT extract on ‘hearings’ demonstrates a style which is comprehensive, textual, non-technical, uses plain language and is amenable as a stand-alone resource. The WCC extract on ‘evidence’ demonstrates a style which is similarly comprehensive, textual, is moderately technical, selects key issues, uses checklists, and is amenable as a stand-alone resource, if required. While it may be argued that the SSAT style is more suitable for non-law trained members, and that the WCC style is more suitable for law-trained members, either style - or indeed a combination - would be suitable to address COAT’s readership needs.

*It is recommended that* COAT considers adopting the SSAT Members’ Handbook and the Workers Compensation Commission NSW Arbitrator’s Manual as models.

## **4 PRODUCTION OF THE COAT BENCH BOOK**

### **Roles and responsibilities**

There are four key actors in the production of the manual. These are COAT’s Bench Book Sub-Committee, writer(s), editor(s) and trainer(s).

### **Bench Book Sub-Committee**

COAT has already established a Bench Book Sub-Committee which will oversee the production of the practice manual. This sub-committee should be responsible for settling the table of contents, appointment of writer(s) and editor(s), quality assurance of the manuscript, budget, production, training, and evaluation.

## **Writer(s)**

Writing is a substantial task and responsibility. There are three options for writing the practice manual, which are:

a *Professionally commissioned expert(s)*

COAT commission a national expert, or experts, to write the manual as outlined in the table of contents based as much as possible on existing materials, with original writing to fill all the gaps, and ensure the manuscript is written in one hand. This expert(s) may be a recently retired and nationally respected member or an experienced member with available time. The advantage of this approach is that it is professional and ensures the job is done in a timely manner to a designated standard; the disadvantage is that it may incur potentially substantial writing fees.

b *Tribunal subsidized contributors (s)*

Another approach is for COAT to enjoin member tribunals to provide the services of a respected member(s), or team of volunteers, to provide their services to contribute to the production of the practice manual as in (a) above, as a part of their tribunal duties. The advantages of this approach is that the production is still professionally supported, and the writing costs are subsidized by member organizations; the disadvantages are that those organizations may lack available resources to provide members' time, there is a managerial challenge overseeing and coordinating timely production, and there is a greater editorial role in harmonising the manuscript.

c *Individual volunteers*

A further approach is for COAT to invite members to volunteer their individual services in contributing to the manual on an honorary basis. The advantage of this approach is that it is very inclusive, and minimizes writing costs. The disadvantage is that it may be very difficult to identify sufficient volunteers and coordinate completion of the manuscript to a designated standard in a timely manner.

## **Editor and production management**

Editing is a separate role, and is potentially also substantial. In an ideal world, technical experts will write reader-friendly manuals in a timely and quality-assured manner. More often, however, busy experts may have problems managing competing time priorities and very different writing styles. Sometimes manuscripts for manuals are confused with those for texts and monographs, and substantial editing is required. Oversight of production deadlines is crucial to timely publication. Preparation of the manuscript to 'camera ready' format, and dealing with commercial printers also requires some experience and expertise. These tasks may go beyond the availability or competence of the supervising committee, and can be allocated to an editor dedicated to performing those responsibilities.

*It is recommended that the practice manual be written by an expert, and supported by an editor, appointed by COAT's Bench Book Committee.*

## **Trainers**

While it is recognised that each tribunal has different training needs and resources, the ultimate success and utility of the manual rests directly on the availability of accompanying training. Over the years, the benefit of many bench book projects has been limited or extended by the availability and nature of supporting training. Consideration should be given to enabling tribunals to conduct their own in-house training using the manual, possibly supported through the provision of a train-the-trainer workshop.

*It is recommended that* COAT supports the distribution of the practice manual with the provision of a train-the-trainer workshop for tribunals, if required.

## **Budget**

At the outset, it would be useful for COAT to consider whether it sees its role in sponsoring a practice manual on a one-off or ongoing basis, as this will affect the content to some extent. It also has a significant implication in terms of recurrent budget. For present purposes, the budget outlined below is on a 1-off basis.

### *Writing*

It is difficult to quantify the time required to write a manual prior to settling its table of contents. Assuming adoption of a table of contents broadly along the lines proposed, above, it is estimated that a provision of up to four months writing time may be required. This is however largely dependent on the extent to which existing materials are deemed appropriate and can be modified to form a basis for writing. At this stage, the production budget should include an allowance for writing fees for two full months – a provision estimated in a range up to \$30,000.

### *Editing*

An additional provision for editing and production management should be defined and scoped for budgeting purposes. For initial purposes, it would be appropriate to include a provision for professional attendances to provide technical advice and support progress at meetings of the Bench Book Sub-Committee, and to oversee final production arrangements – a provision estimated in a range up to \$15,000.

### *Training*

An additional allocation for training should be considered if/when the train-the-trainer proposal is adopted.

### *Production and distribution*

Consideration should be given at the outset to the media for publication. Traditionally, practice manuals were published in hardcopy, but increasingly such services are available on-line. Many would argue that “soft” electronic publications are significantly more accessible and convenient for purposes of rapid reference and research and, indeed, that hardcopy practice versions will be phased out altogether as readerships become predominantly electronically-literate, as is already the case in the United States. For immediate purposes, it is assumed that COAT may be more comfortable proceeding with a conventional hardcopy version of the manual.

*It is recommended that COAT consider publishing soft and hard editions of the manual.*

The following budget is costed on the assumption that a hard copy edition, only, will initially be published. In this event, an estimated unit cost for printing and distribution of a manual of between 100-150 pages with a print-run of 500-1,000 copies in the order of \$20-25 is appropriate, though this cost could be reduced depending on size, production values, form of binding and quantity.

<i>Costs</i>	\$
Writing	30,000
Editing	15,000
Production	25,000
Total	70,000

### *Cost recovery*

There are a number of options available for cost recovery. These include (a) levying a subscription to tribunal members, (b) public sale and (c) sponsorship.

Option (a) levying a *subscription* is likely to be the most viable. Legal publications are typically expensive, but within this context, a unit price of \$50 may be sustainable. In this event, subscriptions could be negotiated with tribunals in bulk ordering of the manual. Assuming the above unit cost with an anticipated distribution of 1,000 copies to the membership, a post-cost surplus of \$25 per copy could generate a cost recovery of \$25,000 to offset against production costs. As institutional stakeholders in COAT, individual tribunals may consider it appropriate to contribute to these costs, possibly on a capitation basis.

Option (b) *public sale* raises an important and possibly sensitive policy issue of whether the manual should be published on the open market for practitioners and other interested consumers. Historically, the courts were reluctant to do so, but more recently are becoming increasingly willing to publish their bench books for use by the legal profession. Both the Judicial Commission of NSW and the British Judicial Studies Board publish some (but not all) of their bench books on-line. This approach conforms with norms of transparency. A further argument in favour of open publication is that it will contribute to improving the quality of representation before tribunals, thereby doubly contributing to improving tribunal performance. In this event, sales to the public at a unit cost of \$50-75 could be considered, and sales in the order of 250 copies would offset all outstanding production costs in due course. A sub-option of this approach would be to approach a commercial publisher to underwrite the entire venture, though this may result in a shift of focus in the aims and objectives of the manual to the needs of users of the tribunal which may not be satisfactory for COAT's objectives at this initial stage.

Option (c) *sponsorship* may be possible, either on a philanthropic or commercial basis, though it is appreciated that sensitivities about the nature of any sponsorship will exist. It may be possible, for example, to negotiate a tasteful advertisement for related administrative law texts from reputable publishers which is acceptable and appropriate to COAT.

<i>Revenue</i>	\$
Subscriptions	50,000
Sales/Sponsorship?	(20,000?)
Outstanding	(20,000)

*It is recommended that* COAT develop a cost-recovery strategy taking into account subscription, public sale and sponsorship options.

### **Production schedule**

A workplan and production schedule appears below. From a technical perspective, the manual can be scoped, written, edited, published and distributed with training over a period of about nine months. The schedule has been devised on the assumption that COAT will receive a mandate to proceed to publication at the AIJA Tribunals' Conference on 10-11 June 2004, that issues of financing and funding can be resolved expeditiously, writer(s) appointed, and that arrangements can then be made to complete production prior to the next national conference in mid-2005.

*It is recommended that* COAT endorse the draft production schedule.



## DRAFT PRODUCTION SCHEDULE

Function	July	August	September	October	November	December	February	March	April
<b>PUBLICATION COMMITTEE</b>	Constitute Committee - Members - Roles	<u>Meeting # 1:</u> - Table of Contents - Production Schedule - Editor - Writer(s) - Budget		<u>Meeting # 2:</u> - Oversee manuscript - QA - feedback	<u>Meeting # 3:</u> - Oversee manuscript - QA - feedback	<u>Meeting # 4:</u> - Settle final manuscript - production options - budget - printer	<u>Meeting # 5:</u> - Oversee production - Plan training - Select trainers	<u>Meeting # 6:</u> - Oversee launch, - Distribution	<u>Meeting # 7:</u> - Oversee training - Evaluation
<b>EDITOR(S)</b>		Define role Writers' guidelines Style-guide	Appoint, brief and support writers	Support and follow-up writers; Obtain draft copy	Edit, revise and settle copy	Edit, revise and settle all copy	Finalise production	Print, publish + distribute	
<b>WRITER(S)</b>			Work plans Commence writing	Drafting chapters	Drafting chapters	Revise and proof manuscript			
<b>MANUSCRIPT</b>			Draft chapters	Draft + revise chapters	Draft + revise chapters	Finalise manuscript			
<b>PRODUCTION</b>				Research printers		Select printer	Specifications Budget	Print	
<b>FOLDERS</b>						Research folders	Select folders	Bind	
<b>DISTRIBUTION</b>								Launch + distribute to members	
<b>TRAINER(S) TRAINING</b>							Training plans		Commence training

## **ANNEXES**

## ANNEX 1 - METHODOLOGY AND INVENTORY OF SOURCES

The methodology for undertaking this consultancy was determined by the time and opportunity available to develop a proposal for the AIJA Tribunals' Conference on 10 June 2004. Noting the diversity and dispersion of the national tribunal membership, efforts have been made to make consultations as inclusive as possible in the time available. This methodology has included the following elements:

- Consultations with tribunal members in interview
- Consultations with tribunal members in two workshops held in Sydney and Melbourne on 22-23 April – including representatives from AAT, SSAT, VCAT, ADT, MRT, RRT, CTTT, WCC, GT, IDRP and MHRB among others.
- Survey of workshop participants and other members
- Global appraisal of bench book models: hardcopy and online – including Australia, Britain, United States, South Africa, Mongolia, Lao and Fiji among others.
- Review of findings and detailed analysis of national members' training needs assessment of AAT (1992).

### Consultations

Deputy President Stephanie Forgie (AAT)  
Ms Troy Barty, Director of the Victoria/Tasmania Branch of the SSAT  
Mrs Joan Dwyer (Senior Member, AAT)  
Mr Graham Friedman (Member, AAT)  
Justice Stuart Morris (President, Victorian Civil and Administrative Tribunal)  
Deputy President Anne Coghlan (VCAT)  
Ms Genevieve Nihill (Member, Mental Health Review Board of Victoria & VCAT)  
Ms Tricia Harper (Member, SSAT)  
Mr Rob Phillips (Member, SSAT)  
Ms Christine Heazlewood (Victorian Institute of Teaching)  
Ms Norma Ford (Member, MRT)  
Ms Regina Perton (Senior Member, MRT)  
Deputy President Dr Gabriel Fleming (Workers Compensation Commission NSW)  
Mr Michael Sassella (Senior Member, AAT)  
Deputy President Deane Jarvis (AAT)  
Dr John Campbell (Member, AAT)  
Ms Sue Bullock (Senior Member, AAT)  
Ms Kay Ransome (Chairperson, Consumer, Trader and Tenancy Tribunal)  
Mr Nick Vrabas (Deputy Chairperson, CTTT)  
Justice Terry Sheahan (President, Workers Compensation Commission)  
Ms Helen Walker (Registrar, WCC)  
Magistrate Nancy Hennessy (Deputy President, Administrative Decisions Tribunal)  
Mr Nick O'Neill (President, Guardianship Tribunal)  
Ms Marion Brown (Deputy President, Guardianship Tribunal)  
Ms Angela Smith (Member, SSAT)  
Ms Julie Bail (Senior Member, MRT)  
Mr John Blount (Deputy Principal Member, RRT)

## Reference sources

### *Australia*

Administrative Decisions Tribunal Members' Manual – NSW  
Social Security Appeals Tribunal Members Handbook - Australia  
VCAT Members' Handbook - Victoria  
Guardianship Tribunal Members' Manual - NSW  
Mental Health Review Board Members' Manual - Victoria  
Refugee Review Tribunal Procedural Guide - Australia  
Workers Compensation Commission Arbitrator's Manual - NSW  
Supreme Court Bench Book – courtesy of Judicial Commission of NSW  
Environment Court Bench Book – courtesy of Judicial Commission of NSW  
Local Court Bench Book – courtesy of Judicial Commission of NSW

### *International*

District Judges Bench Book - online - Judicial Studies Board (UK)  
Adult Court Bench Book - online - Judicial Studies Board (UK)  
Family Law Bench Book - online - Judicial Studies Board (UK)  
Youth Court Bench Book - online - Judicial Studies Board (UK)  
District Court Bench Book - New Zealand  
Supreme Court of the Philippines Bench Book – online – PhilJA  
Small Claims Tribunal Referees' Manual – Republic of Fiji  
Judicial Education & Technology Transfer Project directory/list serve (USA)  
Bench Book for US District Court Judges – Federal Judicial Center  
Civil Judges' Bench Book - Administrative Office of the Courts, Missouri  
Domestic Violence Bench Book – online – Michigan Judicial Institute  
District Judges Manual – Administrative Office of the Courts, Kansas  
Judicial Education Committee Magistrates Bench Book - New Mexico  
Bench Book Planning Manual – American Bar Association  
Administrative Justice Bench Book – South Africa  
Solomon Islands Local Court Manual  
Bench Book for Judges – Ministry of Justice, Maldives  
Mongolian Bench Book for Judges – General Council of Courts, Mongolia  
Lao Bench Book for Judges – Lao People's Democratic Republic

## ANNEX 2 - RESPONSES TO TRIBUNALS' BENCH BOOK QUESTIONNAIRE

### Introduction

The questionnaire was pre-circulated to participants at two lunchtime workshops organized in Melbourne on 22 April and in Sydney on 23 April 2004 and to participants in interviews. The questionnaire was also circulated to a number of other AAT members. A total of 18 questionnaires were completed by participants. Participants comprised 22 representatives from 12 larger city-based tribunals. There were multiple responses from some tribunals. Additionally, some responses were completed by members of more than one tribunal. While efforts were made for these workshops to be as inclusive as possible, responses predominantly reflect the views of fulltime members of larger CBD-based tribunals and in the time available, it is recognized, may not comprehensively represent the full diversity of the national membership of tribunals. To this extent, the responses are indicative rather than representative.

### A Respondent's Background

1 Name of tribunal

Social Security Appeals Tribunal (multiple); Refugee Review Tribunal (multiple); Administrative Appeals Tribunal (multiple); Victorian Civil and Administrative Tribunal (multiple); Administrative Decisions Tribunal, Migration Review Tribunal (multiple); Victorian Mental Health Review Board (multiple); NSW Workers Compensation Commission; NSW Guardianship Tribunal; Aged Care Complaints Resolution Committee; Victorian Intellectual Disability Review Panel; SSAT; NSW Consumer Trader & Tenancy Tribunal, Victorian Institute of Teaching Disciplinary Tribunal.

2 Jurisdiction

Various, as above, at both federal and state levels. In terms of the different types of tribunals represented in the sample, the AAT, IDRP, MRT, RRT and SSAT are engaged solely in administrative review. The ADT and VCAT undertake both administrative review and have civil jurisdictions. The other tribunals have exclusively civil jurisdictions.

3 Location

Federally and state-based locations in Melbourne, Sydney, other capital cities and some regional centres.

4 Size of membership

Respondents represented tribunals ranging in size from the largest comprising approximately 300 members and panel experts to the smallest of 22 mainly part-time members. Most respondents represented larger organizations with total memberships in the range of 65-150 members.

5 Your title/role

Of the 17 responses to this question 13 (76.5%) were from full-time members, and 4 (23.5%) were from part-time members.

6 Tribunal experience

Experience of respondents' ranged between 1-30 years, with a mean of about ten years.

7 Qualifications

Workshop participants were predominantly law-qualified. Additional qualifications included accounting, teaching, arts and economics. Qualifications ranged from bachelor to doctoral levels.

**B Members' major professional development needs**

8 Information – listed seriatim

Legislative; jurisprudence; legislative changes, case law and practice/procedure; detailed 'how to' approach to specific questions; legislation, guides, workplace management; basic generic information on conducting hearings, procedural fairness, writing decisions, party-party v 1-person tribunals; legislative updates, general principles of fairness; widely varying; legal updates, hearing management; natural justice and procedural fairness; administrative review generally, hearing procedures, case-specific issues; procedure, standard of proof, rules of evidence; administrative law and its principles, rules of evidence.

9 Skills – listed seriatim

Questioning, analysis, writing, decision-making; decision-writing, conduct of hearings, time/list management; dealing with interpreters, unrepresented applicants, pushy lawyers; mediation/conciliation, case management, communication, legal research, conduct of proceedings, reason writing, medical issues; time management; confidence developing for non-lawyers; conducting hearings, giving decisions, writing and giving reasons; awareness of issues, facing people with disabilities; running a hearing, dealing with time constraints in evidence gathering, hearings; decision-writing, delivery of oral reasons; evidence gathering, interviewing skills; control of hearings, evaluate legal arguments, questioning; running hearings, writing clear reasons for decisions, working with interpreters.

10 Attitudes/outlook – listed seriatim

Intercultural, interpersonal; collegiate and organisational responsibility; non-legalistic, non-adversarial, ethics, gender and cultural awareness; control, dealing with unrepresented parties; build confidence; listening skills, cultural diversity, role of 'therapeutic jurisprudence'.

**C Priority audience**

11 Describe level of membership experience most likely to need/benefit from a bench book:

(53.7%) 0-2 years, (53.7%) 3-5 years, (24.1%) 6-10 years, (13.9%) 11+ years

12 Level - rank in order of priority the ideal pitch for the bench book:

(29.6%) induction, (68.52%) continuing/update, (29.6%) specialist/advanced, (18.5%) refresher

**D Specific contents**

13 Specify particular topics which should be addressed as a priority (listed seriatim):

Decision writing, decision making models; we are addressing tribunal-specific procedures and requirements, relevant aspects of administrative law, conduct of hearings, writing decisions, use of information; decision-writing, principles on adjournments, /extensions of time, procedural fairness, bias, costs, functus officio and res judicata, privilege, practical application of rules of evidence, best practice with interpreters, standards of proof; procedural fairness, fact-finding, decision-writing, bias, setting aside summons; conducting hearings, adjournments, privilege, bias, making decisions, amending documents, relevance and evidentiary objections, writing reasons, representation, procedural fairness, giving oral reasons, interpreters; natural justice, bias; natural justice, procedural fairness; bias/disqualification, running a hearing, privilege, hearing rule/procedural fairness; feeling comfortable sitting as member - procedure and control; running hearings, administrative law principles, statements of reasons.

**E Other assistance**

Specify any other professional development services required as a priority(listed seriatim):

Listening and questioning techniques at hearings, logical reasoning in decision-making; managing a busy list; VCAT conducts induction/professional development courses on ongoing basis; case-specific training, decision-writing skills; seminars and meetings where members can meet.