

# The Anti-Discrimination Tribunal

## Annual Report

2016

# Table of Contents

1	Overview .....	3
2	Constitution of the Tribunal .....	3
3	Membership Requirements .....	4
4	Summary of Human Resources .....	4
5	Tribunal Accommodation.....	4
6	Referrals to the Tribunal 2015/2016 .....	5
7	Tribunal Procedure.....	5
8	Appeals to the Supreme Court of Tasmania.....	6
9	Decisions of the Tribunal.....	6
10	Report on Financial Statement .....	6
11	Intent for 2016-2017 .....	6
12	Members of Tribunal & Staff .....	7

# 1 Overview

The Anti – Discrimination Tribunal (ADT) is an independent statutory tribunal created under the Anti-Discrimination Act 1998 with responsibility to

- Review decisions of the Anti-Discrimination Commissioner to dismiss or reject a complaint made as to discrimination,
- Review decisions made by the Anti-Discrimination Commissioner as to applications for exemptions,
- Conduct Inquiries on matters referred by the Anti-Discrimination Commissioner.

In early 2015 the Attorney General and the Department of Justice sought the approval of the Chief Commissioner, Workers Rehabilitation and Compensation Tribunal (WRCT) to have that Tribunal assume the administration and operation of the Anti-Discrimination Tribunal. This occurred with the Chief Commissioner of the WRCT in July 2015 being appointed as the Chairperson of the ADT. The ADT has for this period been co-located with the WRCT and other tribunals fostered by the WRCT. The Registry is located at the Hobart premises of the WRCT and the ADT utilises the administrative support from WRCT and its premises consisting of hearing rooms, and conference /meeting rooms in Hobart and Launceston.

# 2 Constitution of the Tribunal

The Tribunal may be constituted by one or more members as determined by the Chairperson in respect of a particular matter referred to the Tribunal.

The membership panel of the Tribunal is currently

- Mr. Stephen Carey --Chairperson
- Mr Rodney Chandler
- Professor Margret Otlowski
- Mr. Steven Bishop
- Ms. Audrey Mills
- Ms. Kate Cuthbertson
- Mr. Robert Winter.

### 3 Membership Requirements

The requirement for appointment as Chairperson is not less than 7 years standing as a legal practitioner, or appointment as a magistrate or former judge.

If in any particular matter the Tribunal consists of only one member that member must be a legal practitioner of not less than 7 years standing, a magistrate or former judge.

If in any matter the Tribunal consists of 2 or more members, one of those members must be a legal practitioner of not less than 7 years standing, the other members must be persons with the experience and expertise relevant to the inquiry before the Tribunal.

It is for the Chairperson to determine which member or members will constitute the Tribunal in any particular matter if the tribunal is constituted by more than one person then determine who is to be the presiding member.

### 4 Summary of Human Resources

The following table provides a summary of the number of Full Time Equivalent staff employed by the WRCT as at 30 June each year. The Anti-Discrimination Tribunal is fostered by the Workers Rehabilitation & Compensation Tribunal and therefore utilises those staffing resources.

	30 June 2015 Actual	2016 Budget
Full Time Equivalent Staff	6	8

### 5 Tribunal Accommodation

The Tribunal shares accommodation with the Workers Rehabilitation & Compensation Tribunal. There are currently 4 tribunals fostered by the Workers Rehabilitation and Compensation Tribunal, being the Health Practitioners Tribunal, Motor Accidents Compensation Tribunal, Asbestos Compensation Tribunal and the Anti-Discrimination Tribunal. Signage at premises in both Hobart and Launceston reflect the colocation of these Tribunals.

The Tribunal Registry's Hobart premises are located at Level 7, NAB House, 86 Collins Street, Hobart. These premises consist of two hearing rooms, two conciliation rooms and 2 meeting rooms. In Launceston the Tribunals moved to new and improved premises at 1/111 St John Street in August 2015. Tribunal staff are based in Hobart and travel as required to the North of the State.

Video conference facilities are available at the premises in Hobart and Launceston.

## 6 Referrals to the Tribunal 2015/2016

The Tribunal received 71 applications in the 2015/2016 financial year.

Description	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
Inquiry	32	23	77	29	62
Review of Rejection	8	10	8	6	6
Review of Dismissal	4	7	4	4	3
Other				1	
<b>Total:</b>	<b>44</b>	<b>40</b>	<b>56</b>	<b>40</b>	<b>71</b>

The Tribunal finalised 31 referrals in the 2015/2016 financial year. All 31 referrals were matters lodged within the 2015/2016 financial year.

Finalisation Period	2015/2016
1 Month	1
1-3 months	11
3-6 months	7
6-9 months	5
9-12 months	7
<b>Total</b>	<b>31</b>

## 7 Tribunal Procedure

The procedure for how matters are dealt with by the Tribunal was amended when the administration and operation of the Tribunal was passed to the Workers Rehabilitation and Compensation Tribunal. There was initially some confusion to parties who had matters before the Tribunal at the time of the change over and some delay in actioning these files by the Tribunal during this change over whilst files were physically moved and then assessed and staff became familiar with the files and the procedures applicable.

All matters upon receipt by the Tribunal are now subjected to active case management by telephone direction conferences conducted by the Registrars during which time action is directed to be undertaken by the parties in order to fully prepare their case. At the conclusion of this preliminary stage a Conciliation conference is conducted once again by a Registrar. The Tribunal maintains the alternate dispute resolution processes as the primary method of resolving disputes and matters are not advanced to formal hearing until such time as the Registrar conducting the conciliation process determines that a negotiated resolution is unlikely.

The conciliation process provides an avenue for the parties to achieve an acceptable outcome without the risks and costs associated with a formal hearing. It provides the ability for parties to settle on terms that the Tribunal may not have the power to order. It is held in private as opposed to a hearing which is open to the public.

## 8 Appeals to the Supreme Court of Tasmania

There were no appeals to the Supreme Court in the 2015/2016 financial year.

## 9 Decisions of the Tribunal

Until transfer of the Tribunal to be administered by the Workers Rehabilitation and Compensation Tribunal decisions of the Tribunal were only published if specifically authorised by the responsible member or members. Since the change over the Chairperson has directed that all written determination of the Tribunal are published. There are a significant number of Tribunal determinations made before July 2015 that are not published, these contain discussion on relevant principles and findings of law that would serve as a valuable resource to not only legal practitioners and others with ongoing involvement in this jurisdiction but also to the community generally. It is recommended that some funding or resource be identified to allow a project that will result in the publication of these historic determinations. All determinations of the Tribunal are in writing and published on <http://www.austlii.edu.au/au/cases/tas/TASADT/> (save for those matters with suppression orders).

Six decisions were published during the 2015/2016 financial year.

## 10 Report on Financial Statement

As reported in the Annual report of the Magistrates Court 2014-2015 no separate budget allocation has been made for the Tribunal but rather all administrative and running costs of the Tribunal were absorbed in the overall Magistrates Court budget. This is an issue for the Workers Rehabilitation and Compensation Tribunal (WRCT) as it is funded by the Workers Compensation Fund (non-consolidated revenue) and there needs to be a proper accounting for the value of services provided by WRCT and costs incurred by the Tribunal.

## 11 Intent for 2016/2017

Continue endeavours to secure a specific budget allocation to support the general administrative costs of the Tribunal in order that there is a transparent funding allocation to the Workers Rehabilitation and Compensation Tribunal for the service provided in exercising the role as the Anti – Discrimination Tribunal.

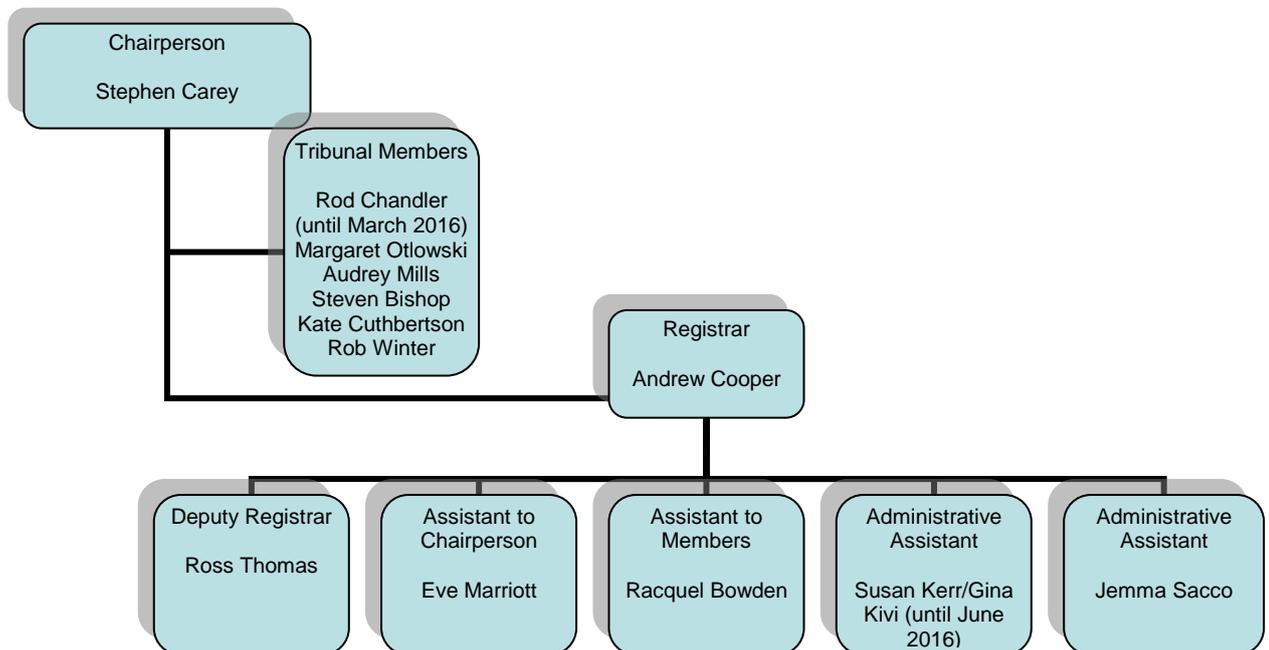
## 12 Members of Tribunal & Staff

The members of the Tribunal and staff of the Tribunal are detailed below.

I express my appreciation once again of the overall efforts of the staff who voluntarily accepted an expanded role in supporting this Tribunal. Particular recognition is deserved for the effort and ability of staff members in quickly acquiring an understanding of this new jurisdiction in order to conduct the file and case management processes required in this jurisdiction.

The ongoing support of the members is also acknowledged, they also readily adapted to the new procedures of the Tribunal and provided their ongoing support in the form of their time to allow the Tribunal to process in a timely manner the matters referred to it.

To the members and staff I thank them for their support during what was a challenging initial year administering this Tribunal.



  
S Carey  
Chairperson