

The Health Practitioners Tribunal

Annual Report

2016



Table of Contents

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

1 Overview

By the Health Practitioner Regulation National Law (Tasmania) Act 2010, Tasmania became part of a National scheme providing for the regulation of prescribed health professionals who are:

- Chiropractic
- Dental (including dentists, dental therapists, dental hygienists, dental prosthetists and oral health therapists)
- Medical
- Nursing and midwifery
- Optometry
- Osteopathy
- Pharmacy
- Physiotherapy
- Podiatry
- Psychology
- Aboriginal & Torres Strait Islander Health Practice
- Chinese Medicine
- Medical Radiation
- Occupational Therapy

National Boards are established for each of these health professions and in some occasions local boards/committees are established in each State with the delegated authority from the National Board. The Boards have the primary role (amongst others) to:

- Register suitably qualified and competent persons within that health profession.
- Decide the requirements of registration.
- Develop approved standards, codes and guidelines for that health profession.
- Establish panels to conduct hearings about health, performance and professional standards of members.
- Refer matters about health practitioners to a responsible Tribunal (Tasmanian Health Practitioners Tribunal).

Boards or the delegated local committee may take action in respect of a health profession for any of the following:

- Performance management (competence)
- Health Management (impairment); or
- Conduct (discipline)

There is also the ability for a health professional affected by a decision of a Board in respect of his or her registration or a decision by a Board to take health, conduct or performance action against a health professional to appeal to the Health Practitioners Tribunal.

2 Constitution of the Tribunal

The Tribunal may be constituted by:

- the Chairperson or Deputy Chairperson sitting alone or;
- the Chairperson or Deputy Chairperson and two Professional Members; or
- the Chairperson or Deputy Chairperson and one Professional Member and one Community Member

The composition of any particular Tribunal hearing will be determined by the Chairperson but the Tribunal must be constituted either with professional members or a professional member and community member in addition to the Chairperson if either party so requests.

3 Requirements for Members

3.1 Chairperson:

Up until the Health Practitioners Tribunal Act 2010 was amended in September 2015 the Chairperson is a Magistrate appointed to the role by the Attorney General upon the recommendation of the Chief Magistrate. Since the inception of this Tribunal the appointment of the Chief Commissioner, Workers Rehabilitation and Compensation Tribunal as a temporary Magistrate allowed his appointment as the Chairperson. The amendment to the Act allows as an alternative the appointment of a legal practitioner with 5 years standing, and in October 2015 the Chief Commissioner, Workers Rehabilitation and Compensation Tribunal was reappointed as Chairperson for a period of 5 years.

The Chairperson may delegate to the Deputy Chairperson any of his or her functions under the Health Practitioners Tribunal Act 2010 or any other Act.

3.2 Deputy Chairperson:

The prerequisites of appointment as Deputy Chairperson are the same as for the Chairperson. Since the inception of this Tribunal this position had been filled by the Commissioner, Workers Rehabilitation and Compensation

Tribunal. There has been no person appointed to this role since the Commissioner position became vacant in March 2016.

The Deputy Chairperson is to act as the Chairperson whenever the Chairperson is absent from duty or from Tasmania or is unable to act as the Chairperson and also during a vacancy in the office of the Chairperson.

3.3 Professional Members:

The Chairperson may appoint a person to be a professional member of the Tribunal. A person may only be appointed to be a professional member of the Tribunal if the person is:

- (a) a registered health practitioner in respect of the health profession to which the proceedings relate;
- (b) in the Chairpersons opinion a person with suitable skill, knowledge or experience to assist in the proceedings; and
- (c) included in the list provided to the Chairperson by the National Board.

3.4 Community Members:

The Chairperson may appoint a person to be the community member of the Tribunal. A person may only be appointed if :

- (a) he has at no time been a registered health practitioner or been registered in respect of a health profession; and
- (b) is not a member of a National Board or a State or Territory Board; and
- (c) is specified on a list of people who are suitable to be appointed. This list is prepared by the Attorney General.

4 Summary of Human Resources

The following table provides a summary of the number of Full Time Equivalent staff employed by the Tribunal as at 30 June each year. The Health Practitioners 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 and 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 6 applications in the 2015/2016 financial year.

Three of those Applications were filed on behalf of a National Board.

Applicant	Respondent	Filing Date	Determination Date	Outcome
RN Susan Farmer	Nursing & Midwifery Board of Australia	16/10/2015		In progress
Dr Jane Tolman	Tasmanian Board of the Medical Board of Australia	8/03/2016		In progress
Dr Malte Schlieter	Dental Board of Australia	6/04/2016		In progress
Pharmacy Board of Australia	Michael Francis Meaney	21/07/2016		In progress
Pharmacy Board of Australia	Victoria Brice	25/05/2016		In progress
Nursing & Midwifery Board of Australia	Benjamin Mark Quinn	9/06/2016		In progress

7 Conciliation

Whilst there is no provision for conciliation in the legislation the parties may agree with the consent of the Chairperson that conciliation is an appropriate means of either resolving a matter in its entirety or reaching agreement in respect of the issue/s to be determined by the Tribunal.

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

All determinations of the Tribunal are in writing and published on <http://www.austlii.edu.au/au/cases/tas/TASHPT/>.

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

10 Report on Financial Statement

The fee for an application during 2015/2016 was \$222.00 per application made by a practitioner, where a matter is initiated by a professional Board there is no application fee.

The Tribunal's Financial Statement for the financial year 2015/2016 is attached as Annexure 1.

An Agreement has been concluded between the Department of Justice and the Australian Health Practitioner Regulation Authority as to the reimbursement (at a set rate) of certain costs incurred by the Department in respect of the functioning of the Tribunal (sitting fees, travel and decision preparation). The intent is that the Tribunal will render accounts to the Department of Justice for services provided and these will (to the extent provided by the Agreement) be recovered from the Australian Health Practitioner Regulation Agency.

This arrangement does not properly reimburse the Workers Rehabilitation and Compensation Tribunal for the general administrative costs of providing the Health Practitioners Tribunal. There has been no budget allocation for this Tribunal but rather general administrative and facility costs are provided by the Workers Rehabilitation and Compensation Tribunal which is funded by the non-consolidated revenue Workers Compensation Fund. This Fund provides in effect what the Department of Justice agreed it would provide as part of the Agreement with the Australian Health Practitioner Regulation Authority namely:

“1.2.1 Management of and administrative support for the operation of the tribunal.

1.2.2 Administrative support for the Tribunal includes general administrative duties, hearing room hire, all registry work, recording services

(including provision of recording of hearing in audio format on compact disc) and videoconferencing.”

It is my opinion not appropriate that the WRCT budget and the Workers Compensation Fund continue to provide services that are the responsibility of government and for which there needs to a transparent funding arrangement underpinning the hosting arrangement.

In the 2015/2016 financial year the Tribunal received \$666.00 in application fees (as Health Practitioner Boards are not required to pay lodgement fees).

11 Intent for 2016/2017

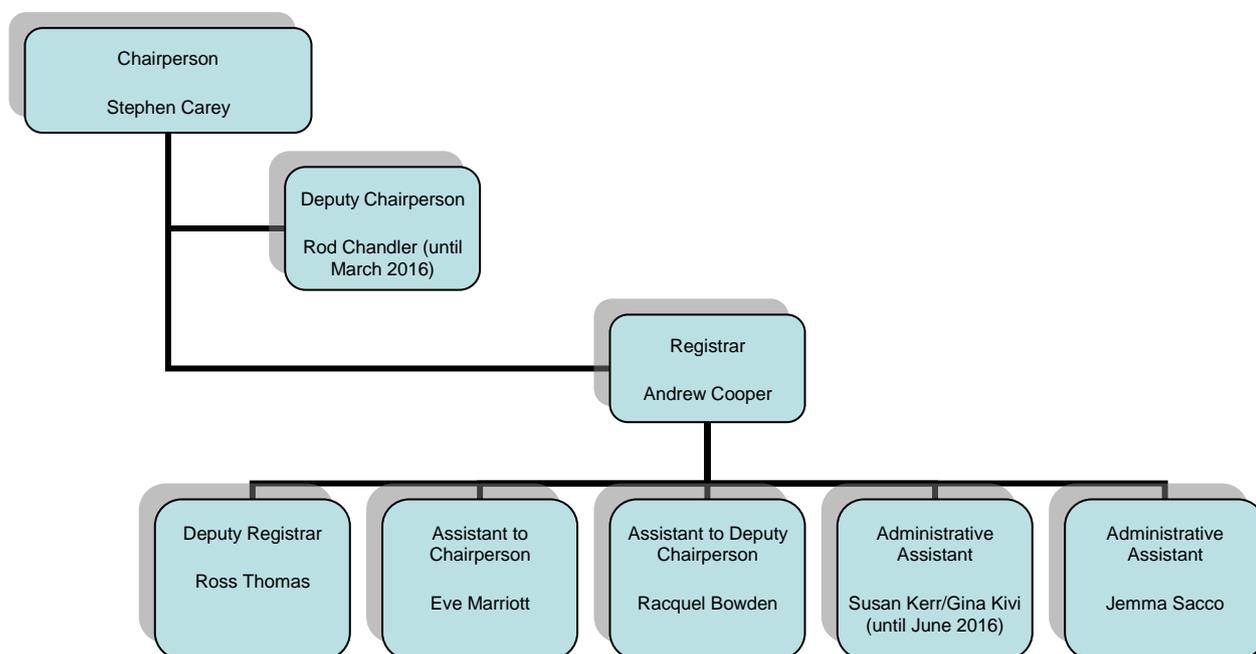
- The Tribunal will continue to liaise with the Department of Justice in respect of ensuring appropriate resources are available in terms of Professional Members, Community Members.
- Continue endeavours to secure a specific budget allocation to support the general administrative costs of the Tribunal 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 Health Practitioners Tribunal.
- The Tribunal will consider updating and utilising it's existing case management system to capture statistical data however this would require funding from the Department of Justice

12 Members of Tribunal & Staff

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

I express my appreciation of their overall efforts and support given to me over the past year.

It is disappointing that due to the lack of timely action upon our requests from March 2016 that the Commissioner Workers Rehabilitation and Compensation Tribunal position be filled albeit on a part time basis, delays have occurred throughout the year in listing and determining matters in this Tribunal. At the time of submitting this report that position has yet to be filled and there will in addition be a delay of a number of weeks in filling the Chief Commissioner Workers Rehabilitation and Compensation Tribunal position notwithstanding the long lead time provided upon my notice I would not be seeking a further period of appointment. Unfortunately given that these two positions are the only members to constitute the Health Practitioners Tribunal a backlog of matters now exists.



S Carey
Chairperson

Annexure I

Department of Justice
Consolidated Fund Financial Management Report
Trust Fund Report for Month Ending 30 June 2016

Budget Centre : T598 Health Practitioners Tribunal	YTD Actual
Opening Balance	
31004 Trust Balance Brought Forward	(6650.35)
Total Opening Balance	(6,650.35)
Revenue	
46102 Other Revenue	(666.00)
Total Revenue	(666.00)
Operating Expenditure	
Salary Related Expenditure	
51101 Salaries and Wages	875.00
Total Salary Related Expenditure	875.00
Non Salary Expenditure	
52217 Email	66.00
Total Non Salary Expenditure	66.00
Total Operating Expenditure	941.00
Closing Balance for T598	(6,375.35)

TOTAL CONSOLIDATED FUND BUDGET