



**Children Services Tribunal
Annual Report 2005 – 2006**

Communication objective

The Children Services Tribunal (the Tribunal) considers this annual report to be an important tool in communicating with our clients, stakeholders and the wider community.

This report aims to outline:

- the Tribunal's objectives
- the principles that guide the Tribunal
- the Tribunal's role within the community
- how the Tribunal operates and makes decisions
- how the Tribunal has performed and what it has achieved in the past year
- the Tribunal's future initiatives.

Feedback

The Tribunal values the views and thoughts of clients, stakeholders and other readers and we welcome feedback on our report. Comments can be emailed to cst@justice.qld.gov.au or posted to:

Children Services Tribunal – annual report
GPO Box 1639
Brisbane Qld 4001.

Front cover: The Children Services Tribunal wishes to acknowledge the contribution by Imogen, aged 9, of the artwork on the front cover of this report.

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Letter of transmittal

12 October 2006

Hon Linda Lavarch MP
Attorney-General and Minister for Justice and Women
18th Floor
State Law Building
50 Ann Street
Brisbane Qld 4000

Dear Attorney-General,

It is with much pleasure that I present to you the annual report of the Children Services Tribunal for the year ending 30 June 2006.

The Children Services Tribunal undertakes an important role in the continuum of child protection strategies in Queensland. This is demonstrated through the complex issues and workload managed by its members and Registry staff.

During a year of legislative and membership changes, the Tribunal remained focused on its paramount concerns – the welfare and best interests of children.

I commend this annual report for 2005–06 to you.

A handwritten signature in black ink that reads "Julie M Ford". The signature is written in a cursive style with a large initial 'J' and 'F'.

Julie Ford

Acting President

Overview of the Tribunal



The Children Services Tribunal (the Tribunal) provides merit-based reviews of certain decisions made by the Department of Communities, the Department of Child Safety and the Commission for Children and Young People and Child Guardian.

The Tribunal was established in response to recommendations contained in the Inquiry into Abuse of Children in Queensland Institutions (the Forde Inquiry) and in the independent review of the *Children's Commissioner and Children's Services Appeals Tribunals Act 1996*.

The Tribunal operates in accordance with the *Children Services Tribunal Act 2000* under the principle that the welfare and best interests of a child are paramount.

The Tribunal provides an accessible and inexpensive review process that ensures fairness and transparency in government

administrative decision-making in relation to children.

The Tribunal reviews out-of-home placement decisions made by the Department of Child Safety, ensuring that the views and best interests of the child are considered in the child protection system.

The Tribunal is also the review body for: employment screening (Blue Card) decisions made by the Commission for Children and Young People and Child Guardian; child-care-centre licensing decisions made by the Department of Communities; and decisions made by the Department of Child Safety about people who want to adopt a child.

The Tribunal ensures accountability for the child protection system by promoting and protecting the rights and interests of vulnerable children and young people.

Our highlights

Highlights of the Tribunal's achievements during 2005–06 include:

- improving the clearance rate of review applications from 85 percent in 2004–05 to 91 percent in 2005–06
- promoting greater awareness and transparency of Tribunal processes by publishing de-identified decisions on the AustLII legal website
- conducting regular meetings with stakeholders and providing training for staff of the Registry and other child protection agencies
- appointing extra Tribunal members and support staff
- providing extensive training and professional development for Tribunal members on various topics including the best interests of children, legislative reforms and Indigenous culture.

President's report



Julie Ford, Acting President

The past year was a period of consolidation and improvement, as well as substantial change, for the Tribunal. In February 2006, the Tribunal reached five years of operation, marking the end of its establishment phase and resulting in a time of reflection on its work. The number of review applications received by the Tribunal this year was consistent with 2004–05. This has allowed the Tribunal to review its practices and procedures and further develop transparent policies and processes to reflect the experience and jurisprudence that has developed within the Tribunal since its inception.

Substantial changes took place to the Tribunal's membership during the year as a result of the appointment process in October 2005. It is very fitting to acknowledge the dedication and hard work of all Tribunal members, past and current. As part-time members, they endure many demands on their professional time but their dedication to the safety and well-being of children and young people in Queensland is such that they willingly make themselves available when requested to sit.

The expertise and thoughtfulness that these members bring to the work of the Tribunal is gratefully acknowledged. I must also acknowledge the Queensland Government's recognition of the complexity of work undertaken by the Tribunal, covering child protection, the child-care industry, adoption and Blue Card reviews. When new members were appointed in October 2005, the value of Tribunal work was reassessed. As a result, the rating assigned to members' work was increased 10 percent, to 100 percent of an AA rating. This rating is consistent with those applied to tribunals in other protective jurisdictions and emphasised the importance placed by the government on the Tribunal's work. Extra funding also meant that the role of Deputy President was expanded in hours to support the work of the President.

I pay tribute to the work of the inaugural Tribunal President, Beverley Fitzgerald, whose term ended in October 2005. Bev established the Tribunal in those important early years and imbued it with a sense of identity and purpose within the broader child-protection landscape in this state. I congratulate her for her many achievements during this period.

I also pay tribute to Susan Gardiner who was appointed President in October 2005, along with myself as Deputy President. Susan brings to her role great experience as a presidential member of a tribunal and her commitment to planning and discussing issues with members and Registry staff ensures a strong sense of working within a team. I took over the role of Tribunal President when Susan stepped into the position of Acting President of the Guardianship and Administration Tribunal in early July 2006. This transition was made very easy by Susan's positive, inclusive style and I sincerely thank Susan for her guidance, support and dedication to developing a strong presidential group and vibrant membership.

The role of the Tribunal, to undertake merit-based reviews of decisions within its jurisdiction, creates an understandable tension between the Tribunal and the decision-makers. This is the nature of merit reviews, as the Tribunal is able to examine the facts of a matter, taking into account fresh evidence (which often comes to light after the original decision is made) and substituting a different decision where the Tribunal considers it necessary. This tension is a healthy sign of a Tribunal that is working effectively as an independent statutory review body. It should be seen not as a negative, but rather as a positive review, leading to quality decision-making and transparent practices and procedures that benefit the children of Queensland and those who care for them.

Since the appointment process in October 2005, the Tribunal and Registry have concentrated on the next phase of the Tribunal's life. Emphasis has been placed on the need to mentor and train new

members who, while having considerable expertise in their own professional areas, may be new to Tribunal work. Extended professional development opportunities for existing members have also been created. Training has been enthusiastically supported by members, with near full attendance at each of the two-day member training sessions. This has increased member knowledge of the diverse areas and issues that come before the Tribunal as well as enhancing member collegiality and a unified sense of purpose.

Attention has also been given to further developing practices and procedures to achieve the objectives outlined in section 6 of the *Children Services Tribunal Act 2000*, which states that the Tribunal is to provide merit reviews of reviewable decisions that are accessible, fair, informal, just and quick. Registry and Tribunal practices and procedures are being examined and, where appropriate, developed in consultation with Tribunal stakeholders. Minor amendments to the *Children Services Tribunal Act 2000* to support these practices and procedures have been requested and are being finalised. It is expected these will pass through Parliament during the 2006–07 financial year.

This year, the Tribunal's Registry started developing a computerised case management system to enhance current systems, which are done manually. This system will be further developed and implemented in the new financial year. When finished, it will contribute to improved registry practices, save time and allow the Tribunal and the Registry greater access to statistical information.

The important role of a preliminary conference – with its focus on early dispute resolution by the parties – to the Tribunal's processes continues to be emphasised. This has resulted in a continuing high rate of matters being finalised at this early stage of the process, based partly on the skilled guidance of the Tribunal members involved, many of whom have strong dispute resolution backgrounds.

The Tribunal has begun developing a communications strategy, as part of its strategic planning, to promote accessibility to the Tribunal. In June 2006, the Tribunal started publishing its decisions, in a de-identified form, on the Australasian Legal Information Institute (AustLII) website. AustLII provides free Internet access to Australasian legal material. This allows the Tribunal to communicate with a broad audience including stakeholders, the legal fraternity and other interested parties. It also improves access to justice, through better access to information, and accountability, through a more transparent process.

The presidential group and members have been supported in many of these efforts by a dedicated Registrar and Registry staff, who all have a commitment to child safety. I particularly acknowledge the work of the immediate past Registrar, Elizabeth Knight, and look forward to the continuing fruitful professional relationship with the newly appointed Registrar, Luke Tilley. All Tribunal members speak highly of the Registry's professionalism and outstanding support.

The positions of the President and the Deputy President remain part-time, requiring a team approach to the Tribunal's leadership. Many Tribunal members have graciously brought their professional expertise to assist in this phase of the Tribunal, where the Deputy President's position is presently vacant. This collegiate support is greatly appreciated and acknowledged.



Julie Ford
Acting President

Who we are



Tribunal's role



Ron Joachim, Julie Ford and Kym Richards, Tribunal Members

The Tribunal was established in 2000 to provide merit-based reviews of reviewable decisions that were accessible, fair, informal, just and quick.

The Tribunal is required to conduct its proceedings and make decisions in a way that promotes the interests, rights and well-being of the child. The *Children Services Tribunal Act 2000* allows for the use of both adversarial and inquisitorial procedures as appropriate to arrive at the best possible decision in the circumstances. However the Tribunal relies heavily on the mediation and conciliation skills of its members to assist, where possible, with the resolution of issues in child protection applications in particular.

The Tribunal is guided by the *Children Services Tribunal Act 2000*. The main principle underpinning its work is that the welfare and best interests of a child are paramount. See appendix 2 for the object and principles of the Act.

The Tribunal reviews certain decisions made under the *Child Protection Act 1999*, the *Commission for Children and Young People and Child Guardian Act 2000*, the *Adoption of Children Act 1964* and the *Child Care Act 2002*. See appendix 3 for a list of reviewable decisions.

Minimising further harm to children is a key imperative of the Tribunal's decision-making processes.

The Registry

The *Children Services Tribunal Act 2000* authorises a Tribunal Registry. The Registry is provided by the Department of Justice and Attorney-General, with the Registrar and staff employed under the *Public Service Act 1996*.

The Registry of the Children Services Tribunal provides essential administration, case management and hearing support to the Tribunal. The Registry comprises: the Registrar; one Senior Tribunal Support Officer; two Tribunal Support Officers; and two administration support staff.

For most of the year, Elizabeth Knight was the Registrar. Elizabeth took up a position with the Higher Courts and Luke Tilley formally became the Registrar in June 2006.

The Registrar is responsible for the overall leadership and management of the Registry and has other specific responsibilities under the legislation and as delegated by the President of the Tribunal.

The Tribunal Registry is co-located with several other organisations at BOQ Centre, Level 9, 259 Queen Street, Brisbane. (See the inside back page for contact details.)

Registry staff perform many integral functions for the Tribunal, including:

- administrative services (budget management, human resource management, preparation of statistics and reports, corporate governance)
- case management (conducting review inquiries, providing information on the role of the Tribunal and the review process, advising parties about Tribunal procedures, obtaining relevant information and material for the Tribunal)
- hearing support (co-ordination and scheduling of hearings throughout the state, preparing material and orders for Tribunal members, providing administrative support on hearing days)
- management of the Tribunal's files, records and statistics.



Children Services Tribunal Registry staff: Front row L to R Luke Tilley, Elisa Robbins, Kaye Whiteman. Back row L to R Dean Williamson, Mychelle Naylor and Sally Harper.

An important role for Registry staff is to help often anxious or distressed applicants with the lodgement of review applications, explaining the role and processes of the Tribunal, and managing Tribunal proceedings which, at times, can be highly emotional. These tasks require high-level skills in communication and conflict resolution.

The Tribunal is introducing a case management system to help the Registry administer and manage applications. To ensure that the system will meet Registry needs, funding was allocated to define the Tribunal's business processes and develop a user requirements document. This work will guide the development of a new case management system that will allow staff to register and monitor the progress of applications.

The Registry's work environment can be complex and emotionally draining. The Tribunal is fortunate to have a committed Registry team that works well together to efficiently and effectively manage its important workload.



Meet the Senior Tribunal Support Officer



Elisa Robbins, Senior Tribunal Support Officer

My name is Elisa and I am the Senior Tribunal Support Officer. I have been with the Tribunal since 1997 and I work in the Registry with the Registrar, the other Tribunal support officers and administration officers.

My role as Senior Tribunal Support Officer includes answering phone calls from the general public and potential clients inquiring about the Tribunal's role.

I also help with intake calls, which are calls received from members of the public who have concerns about their children in the care of the Department of Child Safety.

When an application is lodged with the Tribunal, I process the application form and make sure that the application has been completed correctly and that all appropriate paperwork has been received. I prepare the review application instruction form, which gives some background to the case and helps the Registrar and President constitute a panel that will hear the application.

I also manage several cases that are being heard by the Tribunal. This includes advising the parties of the details of the preliminary conference and hearing; helping the applicant with their enquiries; and liaising between all parties and the Tribunal panel to ensure the submissions and relevant documentation are received within the

required timeframe and then distributed to the relevant parties.

My duties include helping the Tribunal members during the review hearing. These duties include recording the proceedings, acting as court orderly during proceedings, showing witnesses into the hearing room, and processing evidence and submissions from the parties during the review hearing. This may involve travelling with the Tribunal if a hearing is listed outside our Brisbane base.

The Tribunal

The Tribunal is comprised of a part-time President, a part-time Deputy President and 26 part-time members. The *Children Services Tribunal Act 2000* require that a legal member sits on all preliminary conferences and hearings. With the change of membership in October 2005, the new Tribunal was able to build on the solid policy and practice foundations established by the previous membership. The President constitutes the panel for each matter, taking into account the specific experiences and knowledge of each member to best suit the individual cases. For example, if a matter involves attachment issues of young children in care, the panel may include a child psychiatrist. Such determinations are weighed up against the legislative requirement for matters to be dealt with quickly and fairly. The Tribunal also strives to have Indigenous members for those matters that involve Indigenous parties.

New members

On 17 October 2005, 28 members, including a new president and deputy president, were appointed for two-year and three-year terms. Of these, 15 members were reappointed from the previous Tribunal membership. The membership now comprises several lawyers with child separate representation and mediation experience, enhancing the legal base of the Tribunal. Two of the legal members have also worked within Indigenous organisations and communities. Some professional members come with extensive

experience within the child protection system. With two child psychiatrists and a paediatrician on the Tribunal, knowledge of childhood health and development issues and the impacts of abuse has been increased. The Tribunal is again privileged to have Aboriginal elders appointed to the Tribunal, as well as an experienced psychologist who is also Indigenous. The position of a young person appointed to the Tribunal, with experience of the issues facing children and young people, complements the panel make-up.

When making these appointments, the Attorney-General recognised the important workload of the Tribunal, giving it similar status to other tribunals in relation to the remuneration of members.

Meet a member – Kim Richards



Kim Richards, Tribunal member

Kim Richards, one of the Tribunal's members, grew up on her parents' hobby farm in a country town of about 10,000 people. As a child, she was instilled with a sense of fairness and doing the right thing. Kim was influenced by her parents' commitment to children and their role as foster carers. She was also encouraged to have opinions and to ensure that she had well-thought-out reasons behind them.

After a difficult adolescence and early adulthood, Kim decided to work with and

for children and young people. She wanted to help others facing similar challenges and issues to her own.

She works mainly with young people at risk, writing and developing programs that are accessible and applicable to them. She also works to educate the community and advocate for young people's rights to health and well-being. This has involved working with Queensland Health, the Adolescent Drug and Alcohol Withdrawal Service and CREATE Foundation (the national organisation for children and young people in care). In 2002, she was awarded the CREATE Board of Directors award for participation and community. As the current foundation manager for SpeakOut, she was recently short-listed for the Queensland Training Awards.

She values her representation on the Children Services Tribunal as extremely important and relevant in the current climate of child protection.

'The Tribunal has an important role in providing an avenue and process for decisions to be made in the best interests of children. Matters before the Tribunal occur when what is in the best interests of children is in dispute or unclear for the parties to determine themselves,' says Kim.

Indigenous members

With highly valued and respected Indigenous members sitting on matters involving children and applicants who identify as Aborigines or Torres Strait Islanders, the Tribunal continues its commitment to culturally appropriate processes. Indigenous members located in different regions provide a depth of understanding of Indigenous issues in both city and smaller communities. The Tribunal continues to strive to have greater representation of Indigenous members across the state of Queensland.

Several Tribunal members also have experience in working within Indigenous organisations or communities, adding to the Tribunal's knowledge base.

The Tribunal continues its in-house training covering Indigenous awareness sessions as well as finding ways to inform Aboriginal and Torres Strait Islander communities about the Tribunal, including meetings with specific groups such as the University of Queensland Indigenous Studies Unit.

The Tribunal's Indigenous members have also helped improve induction information for all new members, better preparing them for the work of the Tribunal.

Meet a member – Elizabeth Benson-Stott



*Elizabeth Benson-Stott,
Tribunal member*

Elizabeth Benson-Stott is a Tribunal member who identifies as an Indigenous person. She is a psychologist by profession and has worked in the United States and Australia, focusing on clinical psychology, mental health issues, human resource management and education.

Elizabeth grew up in a small, regional community in Queensland. She is passionate about the needs of her community and understands first-hand the complexities, challenges and needs of Australian families. Every day in her professional role and in her volunteer work in the community, she sees the day-to-day struggles that people in her community face.

Elizabeth's compassion and drive to affect positive changes has resulted in numerous awards, including a national award for suicide intervention and prevention and an international Donald J Chen Fellowship from the International Association of Child and Youth Psychiatry in 2006. Most recently, she has been announced as a regional finalist in the Australian Institute of Management's Rural Manager of the Year Awards. Elizabeth has recently spoken in South Africa and India on the topics of intervention and mental health.

Case study 1

Foster carers seek review of decision

Background

Foster carers Mr and Mrs E applied for a review of a Department of Child Safety decision to transfer an 11-month-old child interstate to the care of another relative couple, Mr and Mrs J. This decision was made after the child's biological parents and three other siblings (who were also in separate foster care) moved interstate. Mr and Mrs E contested the appropriateness of the new foster carers and their ability to care for all four children.

Evidence before the Tribunal

Mrs J told the Tribunal of the efforts that would be made to provide the children with care and safety, and the ongoing support she could expect from her own children and family. She stressed that she would not allow the children to be reunified with the biological parents until she was satisfied that they were effective parents. Mrs J's responses were thoughtful and honest and she did not seek to trivialise the challenges of caring for four children.

The Tribunal was particularly impressed by Mrs J's evidence about the couple's actions to protect the children from harm from the biological father. The Tribunal accepted that Mrs J had applied for an apprehended violence order against the biological father and had entered into discussions with the biological parents, setting clear rules for contact with the children. The Tribunal was satisfied that such planning showed an acute awareness of the children's safety needs while also allowing them to develop relationships with the biological parents, albeit under supervised conditions.

The Tribunal, however, was concerned about the psychological and developmental effects of separating the 11-month-old child from Mr and Mrs E. The child had been in the couple's care since birth and had developed an attachment to them as primary carers. Psychological evidence was introduced at the hearing which showed that while separation could cause some harm, the child could rebuild bonds of attachment. The Tribunal also heard that in the long term, the child would probably benefit more from contact and integration with the child's siblings and relative carers.

Decision

The Tribunal was satisfied that the concerns of Mr and Mrs E were unfounded and that for the best interests of the child, custody should be transferred to Mr and Mrs J. The Tribunal, nonetheless, commended Mr and Mrs E for ensuring that the child would be appropriately cared for and noted that the couple's application for review was an appropriate exercise of their rights as foster carers. The Tribunal subsequently ordered that the decision of the department to transfer the child to Mr and Mrs J be confirmed.

What we do



The Children Services Tribunal provides an accessible and inexpensive way of reviewing the decisions of the Department of Communities, the Department of Child Safety and the Commission for Children and Young People and Child Guardian to ensure that the best interests of the child are met in the child protection system.

The Tribunal provides a forum for merit-based review of decisions made in four areas of the child protection system.

Most applications involve decisions made under the *Child Protection Act 1999*, where the child or children are in the care of the Department of Child Safety.

The second largest number of review applications comes from employment screening (Blue Card) decisions made by the Commissioner (under the *Commission*

for Children and Young People and Child Guardian Act 2000). People who have received a negative notice in applying for a Blue Card may seek a review of this decision. Unlike the *Child Protection Act*, where decisions are specific to particular children in care, the Blue Card system applies to involvement with any children in Queensland as the card is transferable.

The Tribunal also receives applications regarding adoption decisions (*Adoption of Children Act 1964*) and the licensing and approval of qualifications within the child-care field (*Child Care Act 2002*).

The Tribunal provides accountability for the child protection system by promoting and protecting the rights and interests of vulnerable children and young people.

Continuum of care

There are four intersecting parts to the child protection system in Queensland where individual children come to the notice of the Departments of Child Safety and into care.

The child protection continuum



At one end of the continuum are the prevention and early intervention strategies used by the departments of Communities and Child Safety and other community services to keep children out of the child protection system. This involves supports, therapies and programs to improve the parenting skills and environments of families where children are identified as vulnerable and at risk of abuse or neglect. Intervention strategies are designed to keep families together and avoid the need for alternative care.

The Tribunal becomes involved in the continuum of care under the *Child Protection Act 1999* only when a child protection order is in place and the child is in alternative care. Throughout a child's involvement with alternative care, the Tribunal can review

decisions that change existing arrangements and a party disputes that decision.

In many cases, family members and foster carers will remain constant in the child's life and departmental staff will change over time. As a result, the Tribunal is mindful of the tension experienced by many applicants about the best interests of the child and their views of parental/familial rights. An independent review of a departmental decision can sometimes help applicants gain a better understanding of these distinctions and a capacity to work better with the Department of Child Safety.

Listening to the voice of the child

The Tribunal will always place the best interests of the child ahead of all other considerations. It will, therefore, ensure

it hears the voice of the child and their expressed views through various strategies. This includes talking directly with the child if the child has the capacity, if they want to, if they are able to express their views to the Tribunal and if this will not cause them further harm. The Tribunal will also ask those who know the child best and will be informed by the views of parents and extended family members, foster carers, departmental workers and others, such as the writer of an independent psycho-social assessment who has spent time with the child.

The Tribunal can review decisions made by the Commission for Children and Young People and Child Guardian concerning Blue Cards. In reviewing these decisions, the Tribunal will consider the best interests of the *abstract* child, that is, the best interests of all Queensland children.

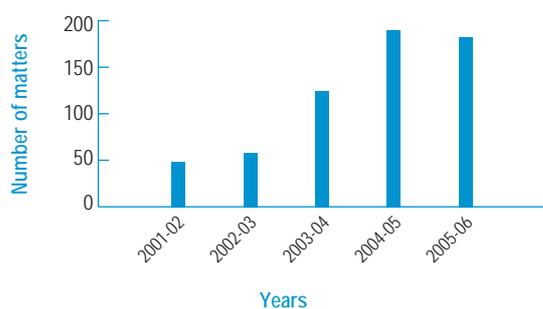
Applications received

In 2005–06, the Tribunal received 182 applications and completed 172 matters, representing a finalisation rate of 91 percent.

Number of cases	2002-03	2003-04	2004-05	2005-06
At start of year	13	18	38	66
Commenced during year	59	125	189	182
Finalised during year	54	105*	161	172
Non-finalised at end of year	18	38*	66	76

*These figure have been revised

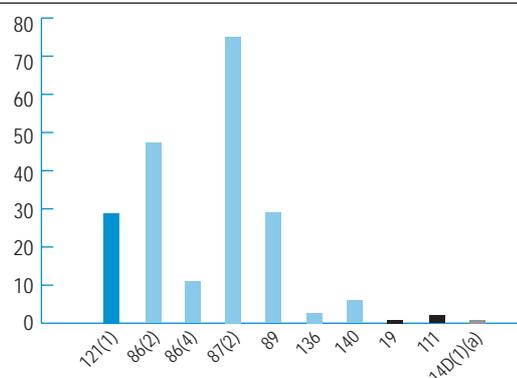
Table 1:



Series 1

The most frequent applications for review related to decisions under the *Child Protection Act 1999* with regard to determining in whose care a child is placed (section 86(2)), refusing and restricting contact between a child and members of the child's family (s87(2)) and removing a child from a carer's care (s89). Another major source of applications were decisions under the *Commission for Children and Young People and Child Guardian Act 2000* regarding persons who had been issued with a negative notice in relate to Blue Card applications.

Table 2: Sections of Acts under which applications were received



Key:

- CCYPCGA ... *Commission for Children and Young People and Child Guardian Act 2000*
- CPA *Child Protection Act 1999*
- CCA *Child Care Act 2002*
- CCR *Child Care Regulation 2003*
- ACA *Adoption of Children Act 1964*

Guide to sections:

- s121(1) CCYPCGA Commissioner's decision to issue a negative notice regarding applicant's suitability to work with children (Blue Card)
- s86(2) CPA deciding in whose care to place a child under a child protection order granting the chief executive custody or guardianship
- s86(4) CPA not informing a child's parents of person in whose care the child is and where the child is living
- s87(2) CPA refusing to allow, restricting, or imposing conditions on, contact between a child and the child's parents or a members of the child's family
- s89 CPA removing child from carer's care
- s136 CPA refusing application for, or renewal of, a certificate of approval
- s140 CPA cancelling an authority
- s19 CCA refuse to issue licence
- s111 CCR refuse application for approval of qualification
- s14D(1)(a) ACA decision to remove a person's name from an adoption list or register

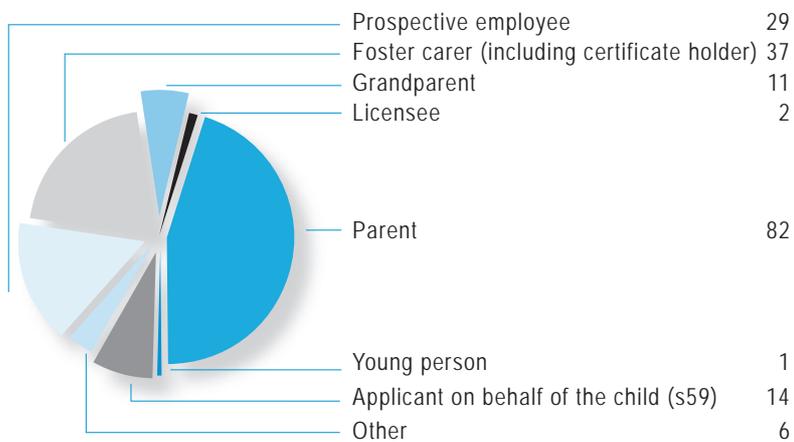
*This figure does not correspond to the figure for applications received as an application can seek a review of more than one decision.



Applicant type

As in previous years, most applications received in 2005–06 were from parents seeking to have a decision on contact with their children reviewed. Applications from foster carers rose 25 percent to 37 this year while there was a slight decrease in the number of applications received from persons who were issued with a negative notice by the Commissioner for Children and Young People and Adult Guardian.

Figure 1: Applicant type



Case study 2

Children as witnesses – legal issues



By The Honourable Bob Bulley, Tribunal member

In some cases, children seek to speak to the Tribunal about reviewable decisions that will affect them. Generally, a separate representative will present the views of the children to the Tribunal or ensure the child's views are clearly expressed within the material presented.

But what if a child is a witness in criminal proceedings that subsequently have a negative effect on a person's application for a Blue Card? What is the Tribunal's view of children appearing before it to give evidence and be cross-examined?

Bob Bulley, a senior Tribunal member, presented a paper on certain significant legal issues that arose in a recent matter in which he was involved as a Tribunal member. Here is a summary of those issues.

At a preliminary conference, an applicant who had been refused a Blue Card asked the Tribunal to arrange for a child witness to attend the hearing for cross-examination. This child had provided the only evidence (via a taped interview) implicating the applicant at his committal proceeding on a charge of indecent treatment of a child. It was this charge upon which the Commissioner had relied in refusing to issue the applicant a Blue Card. Although the applicant had been committed for trial on the charge, the Director of Public Prosecutions had subsequently discontinued the matter.

The applicant submitted that it would be a denial of natural justice and procedural fairness to him if he were not permitted to test the evidence of the child witness by cross-examination.

The Tribunal refused the applicant's request to have the child provide oral evidence at the hearing. In reaching this conclusion, the Tribunal emphasised those sections of the *Commission for Children and Young People and Child Guardian Act 2000* and the *Children Services Tribunal Act 2000* (CST Act), which oblige the Tribunal to act in the best interests of children generally. The Tribunal also referred to sections 91 (1), 91 (2), 93 (2), 93 (3), 94 (1), and 94 (2) of the CST Act. These sections generally state that:

- (a) a child must not be compelled to give evidence
- (b) before a child gives evidence, the Tribunal must satisfy itself that the child is willing to give evidence
- (c) a child giving evidence must not be cross-examined
- (d) only Tribunal members, the child's lawyer and the child's separate representative may ask questions of the child.

Case study 2 (continued)

The Tribunal noted that it expected the applicant to make submissions asserting that the child's untested evidence should be given reduced weight, that the child's allegations were uncorroborated, and that the *Briginshaw v Briginshaw* (1938) 60 CLR 336 standard of proof (that is, the civil standard bearing the gravity of the allegation) should be applied in assessing the child's testimony. Such submissions, it was felt, were relevant to the Tribunal's duty to provide natural justice and procedural fairness to the applicant.

At the hearing, it was submitted that if the Tribunal was not satisfied of the charge against the applicant on the *Briginshaw* standard of proof, then it automatically followed that a Blue Card should be issued to the applicant. In discussing this submission in its reasons, the Tribunal referred to passages in decisions of the High Court and Family Court. The Tribunal then concluded that:

- (a) the Commissioner's (and the Tribunal's) process does not involve a re-trial of the charge on a criminal or a civil standard of proof. It is a matter of finding whether or not there is an *unacceptable risk* that the allegation is true
- (b) it is the role of the Commissioner (and the Tribunal) to take into account all matters required under the provisions of the CCYPCG Act and any other relevant matter in deciding whether or not an *exceptional case* exists
- (c) having taken all these matters into account, including findings in relation to the charge, the Commissioner (and the Tribunal) needs to be satisfied whether or not an applicant represents an *unacceptable risk* to Queensland children in general. This decision will then translate into whether or not an *exceptional case* exists.

This decision was made following a preliminary conference and the final de-identified written decision regarding this matter will be reported on AustLII soon.

How we work



Julie Ford (Deputy President), Susan Gardiner (President) and Ron Joachim (Tribunal member), 2005-06.

Tribunal decision-making

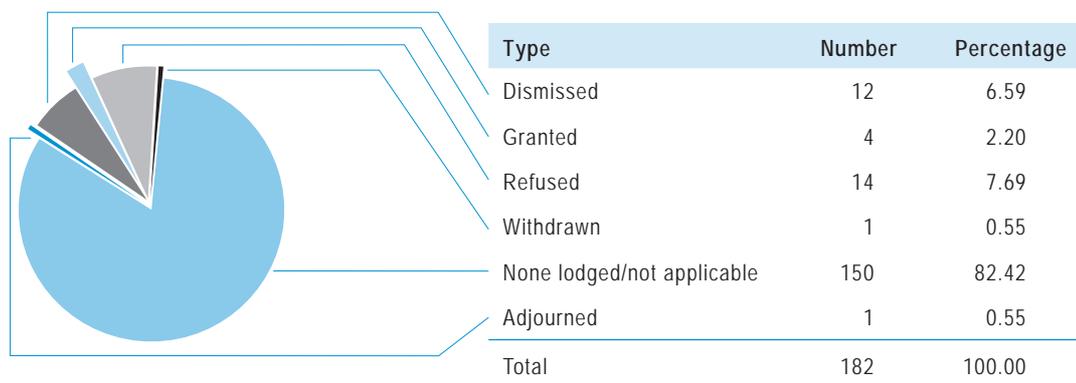
The Tribunal sits as a multi-disciplinary panel to ensure that the best interests of the child are addressed, with members considering not only the legal issues but the social and emotional contexts affecting a child. The *Children Services Tribunal Act 2000* allows for both adversarial and inquisitorial methods of conducting hearings.

The Tribunal holds a preliminary conference to help parties identify and clarify the issues in dispute and to identify further information to be provided by the Tribunal if a hearing is to go ahead. The parties are informed about tribunal practices and procedures relating to hearings and evidentiary requirements. The Tribunal is not bound by the rules of evidence but must ensure the principles of natural justice and procedural fairness are followed.

Importantly, the Tribunal encourages the parties to explore opportunities to resolve disputed issues at the preliminary conference phase. At this phase, about 70 percent of matters are resolved or withdrawn, or it is determined that the Tribunal does not have jurisdiction over them.

If the applicant has requested a stay of a departmental decision, the Tribunal must hear the stay application as quickly as possible, usually within 14 days of the request being lodged. This occurs as part of the preliminary conference, with the Tribunal generally relying on the material provided as well as verbal evidence given by the parties. All applicants, except those lodging an application for a review of a decision made under the *Commission for Children and Young People and Child Guardian Act 2000*, are entitled to apply for a stay hearing. (See Figure 2)

Figure 2: Stay applications



Of those child protection matters that go to a hearing, the Tribunal determines at the preliminary conference whether there is a need for a separate representative for the child or children involved. The Tribunal can also grant leave for an applicant to be legally represented. The panel will hear the evidence of both parties' witnesses, including any expert witnesses identified at the preliminary conference and witnesses called by the child's representative

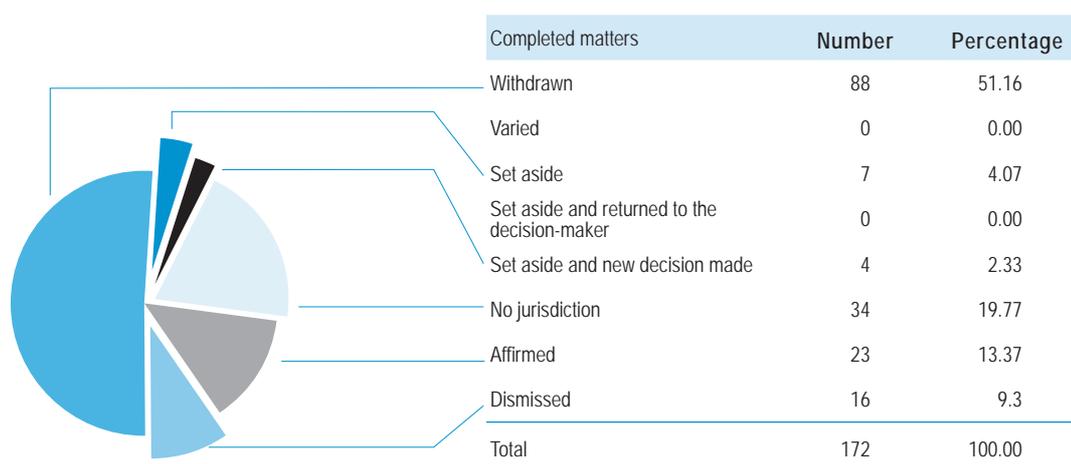
The Tribunal must decide the matters afresh and can confirm, set aside or vary a decision. Even during the course of a *Child Protection Act 1999* matter, the Tribunal panel may continue to encourage opportunities for resolution by the parties. Many parties at this stage, however, want the decision to be independent of the Department of Child Safety.

The Tribunal generally makes its decisions and provides written reasons for all decisions within four weeks of a hearing finishing and final submissions being received.

Outcomes

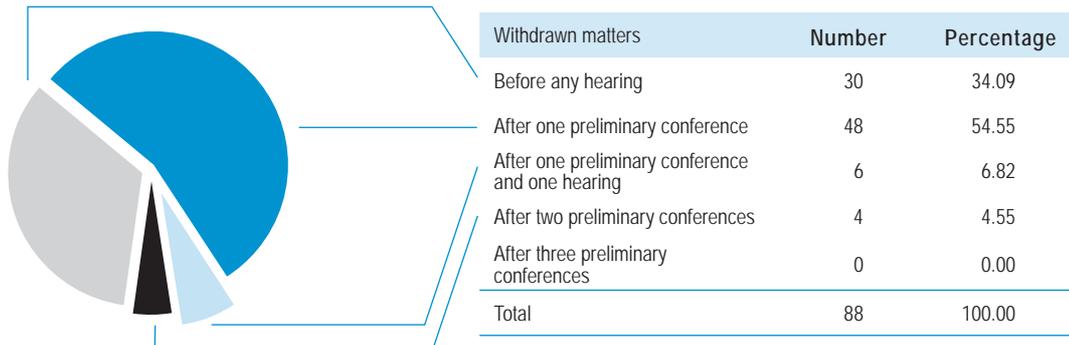
The Tribunal aims to complete the review process in a quick and efficient manner. In 2005–06, the Tribunal finalised 44 percent of applications within three months and 73 percent within six months. Many factors outside the control of the Tribunal affect finalisation rates. For example, if some or all of the matters to which the reviewable decision relates are also before a court, the Tribunal's review must be suspended.

Figure 3: Outcomes



About 50 percent of matters are withdrawn. A party may withdraw an application at any time, pursuant to section 71 of the *Children Services Tribunal Act 2000*. It is noted that most applications are withdrawn after at least one preliminary conference. The Tribunal views these withdrawn matters as evidence of the success of the Tribunal’s collaborative-resolution approach.

Figure 4: Withdrawn matters



Hearings

Unlike a court hearing, a Tribunal hearing is less formal and not bound by the rules of evidence. A proceeding before the Tribunal must be conducted as simply and quickly as possible, allowing both parties to put forward their views and have them considered.

Regional hearings

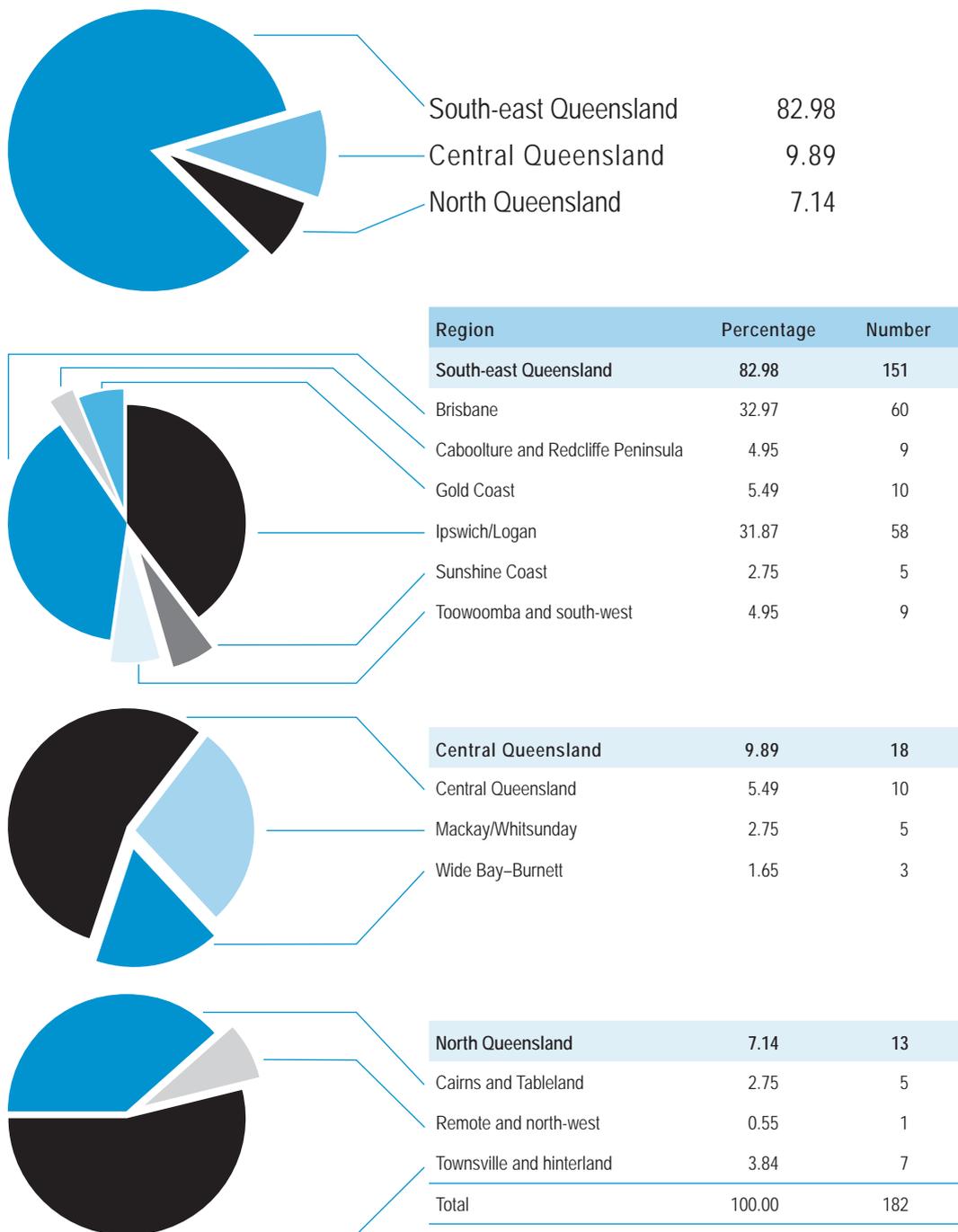
Locations of hearings held throughout year

The Tribunal has a commitment to conducting hearings where applicants, children or families are located. While most applications were from the Brisbane region, the Tribunal went to Cairns, Townsville, Rockhampton, Bowen, Mackay, Hervey Bay, Murgon, Gold Coast and Toowoomba in the past year. With its commitment to training and awareness-raising of stakeholders within regional communities and the start of stage three child safety legislative reforms on 31 May 2006, the Tribunal envisages an increased presence in regional Queensland in the future.



Where possible, the Tribunal uses technology such as telephone hearings and video conferencing. However, the nature of the Tribunal’s work and the significantly high number of disadvantaged and marginalised parties before the Tribunal requires most hearings to be in person. Access to justice is a very real issue for the Tribunal. While hearings in south-east Queensland constitute the largest number of hearings again this year, the Tribunal is also mindful of providing access to the Tribunal to regional and rural Queensland. As a result, an increased number of sittings in regional and rural sittings took place during 2005–06. The Tribunal plans to seek more regional members in the next term to increase applicants’ access to regional hearings while curbing travel costs.

Figure 5: Number of applications according to regional centres



Case study 3

Applicant seeks review of denial of 'Blue Card'

Background

A young man who had been issued with a suitability notice (a Blue Card) as a volunteer was subsequently issued with a negative notice after being charged with possessing a child abuse computer game. The man had downloaded a substantial collection of pornographic images using peer-to-peer software. This collection included child pornographic images.

Throughout the police investigation and hearing in the Magistrates Court, the man maintained that the images had been downloaded accidentally and quickly deleted when discovered. Although it was clear on the evidence before the Magistrates Court and Tribunal that the program used to download the images was susceptible to such errors occurring, some material had not been deleted from the man's computers. The man co-operated with police fully and entered an early guilty plea in the Magistrates Court, although no conviction was recorded due to the inadvertent nature of the offence and the man's age at the time.

Evidence before the Tribunal

In the hearing before the Tribunal, it was noted that the young man possessed many commendable qualities and a community-orientated outlook. The Tribunal found, however, that the man did not have a great depth of emotion or maturity and lacked insight and understanding into the circumstances of his actions. The Tribunal is aware of the significant adverse impact that child pornography and its dissemination has on the community and felt that despite the man's intentions, the mere possession of material depicting the sexual exploitation and abuse of children brought his eligibility to hold a Blue Card seriously into question.

The Tribunal was particularly concerned that the man had continued to use peer-to-peer programs to download adult pornography, even after the charges had been made. The Tribunal found the man had shown an unacceptable degree of recklessness and indifference by continuing to risk downloading child pornography. The Tribunal was also concerned about statements made during the hearing that suggested the young man's actions were 'youthful curiosity'. The Tribunal felt that such sentiments showed that the young man had possibly intended to view the materials.

Decision

The Tribunal found that the nature of the charges, coupled with the minimisation, justification and denial on the part of the man, supported the refusal of the man's application. The Tribunal confirmed the Commissioner's decision to issue a negative notice.



Members' training and professional development



*Tribunal Members March 2006. Back row L to R Glenda Alexander, Jennifer Wiltshire, Susan Gardiner, Penny Feil, Bob Bulley, Nigel Collings, Rosemary Kyburz, Alison Holm, Gwenn Murray, Carol Peltola, Julie Ford, Ron Joachim, Jennifer Felton, Rob Grant, Michelle Dooley, Mark Johnston
Front row L to R Gwen Schrieber, Elizabeth Benson-Stott, Lyn Johannessen, Alexander Brands, Maureen O'Regan, Johanna Bakermans, Kim Richards, Shirley Watters.
Absent from photo: Susan Bothmann, Michelle Howard, Stephen Stathis, Alison Harris*

The President is required, under the *Children Services Tribunal Act 2000*, to ensure that members and the Tribunal's staff receive regular and appropriate training.

The Tribunal remains committed to a performance-appraisal process to ensure its members are adhering to the required standards. Members appointed before October 2005 took part in an annual interview with the then President. Further development of this interview process to enhance our work is presently at hand.

Since the October 2005 appointments, the Tribunal continued its commitment to professional development of Tribunal members. Critical to this commitment has been the introduction of regular two-day member training sessions. The Tribunal conducted training sessions in November 2005 and March 2006. A crucial start to these training days involves one

of the tribunal's indigenous members acknowledging the traditional owners of the land. These powerful and eloquent welcomes quickly focus the membership on the tasks at hand of learning and sharing expertise and experiences.

The member training sessions have involved:

- examining the different Acts within the Tribunal's jurisdiction
- workshops using individual case studies
- presentations by the Department of Child Safety's Court Services Unit and the Commission for Children and Young People and Child Guardian
- general forums to raise issues and discuss panel processes
- professional presentations by Tribunal members on topics such as the best interests of children and the role of the child's separate representative.

The Tribunal held a successful joint training day in November 2005 with the Guardianship and Administration Tribunal (GAAT). Shane Duffy, chief executive officer of the Aboriginal and Torres Strait Islander Legal Service, spoke on the subject of communicating with diverse groups, with specific emphasis on Indigenous communities. As both Tribunals hold hearings in regional and city areas, Shane's knowledge was invaluable to our continuing learning and understanding. A joint session on writing reasons was made most interesting with the use of creative writing techniques presented by Professor Adrian Ashman, from the University of Queensland.

Further, the long-established peer-review process of members' debriefing after preliminary conferences and hearings continues. The Tribunal continues to support individual member development, which involves formal and informal mentoring activities by more experienced Tribunal members.

External conferences and forums

Members are encouraged and supported to attend conferences and forums to expand their knowledge base. These opportunities have involved the following initiatives.

In September 2005, Beverley Fitzgerald and Richard Roylance, a member of the Tribunal up to October 2005, presented a paper at the ISPCAN International Congress in Berlin titled *Is there a best model to evaluate the best interests of the child within a statutory context*. This was an excellent forum to present the focus of the Tribunal and approaches used in its decision-making.

In October 2005, members attended a specific session for the Tribunal on the new Structured Decision-Making Tools introduced by the Department of Child Safety to improve practices and procedures within the department.

Several members attended the Australian Institute of Judicial Administration international conference in Canberra in April 2006. The conference, titled *Tribunal practice in an international context*, was an excellent opportunity to meet with members from various tribunals across Australia and the world. It is worth noting that the Children Services Tribunal model in use in Queensland is one of a kind. The Tribunal is the only independent entity in Australia conducting merit-based reviews of decisions involving child protection concerns of children in care of a statutory body, and reviewing employment screening decisions and child care and international adoption decisions.

Members have attended the research forums hosted by the Department of Child Safety to keep updated on emerging issues and research findings.

Members also attend forums hosted by the Queensland chapter of the Council of Australasian Tribunals (COAT). A further resource now available to the members is the *COAT practice manual for tribunals*. While there are clear differences between tribunals, there are issues common to members of any tribunal and the manual focusses on these common issues. A Tribunal member, Alexander Brands, has been engaged to produce a section specific to this Tribunal to enhance the manual.



Our stakeholders



The Tribunal has numerous stakeholders with which it has regular contact in the course of its work. All children in Queensland, including those who are subject to a review application concerning decisions under the *Child Protection Act 1999*, are the Tribunal's primary stakeholders.

Parents and family members of children in care and foster carers involved in a merit-based review of *Child Protection Act 1999* decisions constitute another stakeholder group, as are applicants (and their legal representatives and support people) seeking a review of decisions under the Tribunal's other three jurisdictions.

Although an independent body, the Tribunal has contact with a comprehensive system of government bodies and non-government organisations providing services to children in order to achieve its statutory objectives.

These stakeholders, with whom the Tribunal has regular contact specifically involving review matters are:

- Court Services Unit, Department of Child Safety
- Regional Child Safety Service Centres, Department of Child Safety
- Legal Aid Queensland (for separate representatives)
- Foster Care Queensland (as agent for foster carers)
- Child Care Unit, Department of Communities
- Employment Screening Unit staff within the Commission for Children and Young People and Child Guardian.

The Tribunal conducted successful stakeholder meetings with these organisations on 9 March and 22 June 2006. These forums allow the Tribunal to consult and share information about the processes,

procedures and legislative amendments that affect its functions. No individual cases are discussed at these meetings.

As part of the child protection regime in Queensland, the Tribunal must stay in touch with changes in other jurisdictions. The President and Deputy President attended the inaugural Child Protection and Family Court initiative established by the Commissioner, Elizabeth Fraser, in March 2006. The original purpose of this meeting was to discuss the management of cross-jurisdictional issues when child protection concerns arise in family law cases, and to identify areas where further collaboration may be useful. Attending this meeting were judicial members from the Children's Court, Family Court and Magistrates Court and the Commissioner, senior representatives of the Commission, and directors-general from the departments of Justice and Attorney-General, Child Safety and Communities. Participants at this extremely important initiative gave commitments for ongoing annual meetings.

The President has also met with Foster Care Queensland executive members to advance discussions about the representation of foster carers in hearings. The President's role is to also represent the Tribunal at formal events such as the Department of Child Safety budget announcement and the update of progress on the Crime and Misconduct Commission recommendations by the then Minister of Child Safety, the Honourable Mike Reynolds, at Parliament House on 6 January 2006.

The Tribunal maintains a strong link with the Department of Justice and Attorney-General's Child Safety Director, Robyn Albury, who remains a key link with the child protection initiatives of other State Government departments.

Other community engagement activities



Maureen O'Regan, Tribunal member, conducting training session

The Tribunal continues its commitment to formal training sessions for Department of Child Safety staff, particularly team leaders and child safety officers. The Deputy President continued the work of legal

officer Lyn Barrett from November 2005, providing sessions about the Tribunal to team leaders and child safety officers as part of the comprehensive training modules run at the Warilda Training Centre. This is an opportunity to inform workers of the Tribunal's processes and to help them to see their role as one of a model litigant. The Tribunal is planning to expand this training commitment and run a mock preliminary conference and training session for court co-ordinators within the department's Court Services Unit during 2006–07.

The Deputy President also hosted a training session specifically tailored for regional representatives of Foster Care Queensland. This external training commitment is also conducted by Maureen O'Regan, Tribunal member.

The President conducted awareness sessions with various organisations and other stakeholders in Townsville in November 2005. This community training will continue as Tribunal members travel to regional areas, and two sessions are planned for Townsville and Mt Isa in late 2006.

Our achievements



The past year was one of change and growth for the Tribunal. Listed below are the Tribunal's major achievements during 2005–06.

- Extra support staff and Tribunal members were appointed, improving the Tribunal's clearance rate from 85 percent in 2004–05 to 91 percent in 2005–06.
- The Tribunal promoted greater awareness and transparency of the Tribunal process by publishing de-identified decisions on the AustLII legal website (see further details below).
- The Tribunal improved public awareness of its role and improved the delivery of its services through regular stakeholder meetings and by providing training for staff of the Registry and other child protection agencies.
- The Tribunal has undertaken strategic planning to ensure that the services provided by the Tribunal continue to develop and improve.
- Tribunal members have undertaken professional development and extensive training on significant issues including the concept of best interests of the child, legislative reforms and Indigenous culture.
- The Tribunal has initiated the development of a communication strategy that will include a community education program to raise awareness of the Tribunal throughout the state.

Publication of Tribunal decisions

During 2005–06, the Tribunal began publishing its decisions in a de-identified form on the Australasian Legal Information Institute (AustLII) website, which provides free Internet access to various Australian legal materials.

Publication of de-identified decisions allows the Tribunal to communicate to a broad audience including parties involved in hearings, stakeholders, the legal fraternity and other interested people.



Paul Ryan, GAAT Tribunal officer assists CST with de-identifying decisions to be published.

When handing down their decisions, Tribunal panels are to consider allowing publication on AustLII of de-identified decisions and reasons, as long as the *Children Services Tribunal Act 2000* is complied with.

The *Children Services Tribunal Act 2000* requires that all decisions are de-identified before publication to protect the identities of parties involved and their right to privacy.

Initially, the Tribunal aims to publish all 2006 Tribunal decisions. Generally, only final hearing decisions will be published, however, if a significant preliminary conference decision is made regarding Tribunal practices and procedures then consideration will also be given to publication.

The Tribunal will then look at publishing important decisions made before 2006. This will depend on a minor legislative amendment to the *Children Services Tribunal Act 2000*, allowing the President to order de-identified publication where the original Tribunal panel is not available to provide direction.

Publication of such matters to AustLII is an important communication tool as it improves access to justice through public education of the Tribunal's role in the community, improves access to information and improves accountability through a more transparent process. This helps the Tribunal meet the objectives of the *Children Services Tribunal Act 2000*, to provide merit-based reviews of reviewable decisions that are accessible, fair, informal, just and quick.

Children Services Tribunal decisions can be located at the following website: <http://www.austlii.edu.au/au/cases/qld/QCST/>

Future directions



The Tribunal as identified 2006–07 has a year to review and reaffirm our priorities. Many issues are to be addressed during the next year.

- The Tribunal will continue ongoing professional development of members and staff to improve its services.
- The Tribunal expects the number of applications to increase in 2006-07 due to the introduction of stage three child safety legislative reforms by the Department of Child Safety in May 2006 to strengthen the screening process for carers.
- The continued development of a case management system will enable the Tribunal to deal efficiently with any increase in review applications. Children and their families will benefit from a more timely response from the Tribunal.
- The Tribunal is developing a communication strategy, including a community education program, to raise awareness of the Tribunal throughout the state, particularly in regional and Indigenous communities.
- The Tribunal will continue to increase stakeholder involvement, improve service delivery and undertake regional hearings.
- The Tribunal wants to recruit more Indigenous members to ensure that the traditions and customs of Aboriginal and Torres Strait Islander people are appropriately taken into account when decisions about Indigenous children are made.
- The Tribunal will review and update information available to participants involved in preliminary conferences and hearings and continuing to publish de-identified decisions.
- The Tribunal will continue to improve its services through various strategies such as surveying participants who use the Tribunal.

Case study 4

Tribunal makes decision on supervised contact

Background

A couple sought the review of a Department of Child Safety decision to limit family contact with their child to supervised visitation only. The child had been removed from the couple and placed in foster care after being admitted to hospital with non-accidental injuries resulting in neurological damage. The child was injured while in the couple's care, although it could not be proved whether the couple had caused the injuries. The couple provided no reasonable explanation for the injuries. After the child was removed from the couple's care, supervised visitation occurred regularly.

Evidence before the Tribunal

The Tribunal noted that while the child's father had behaved appropriately in all instances of contact with the child, the mother had shown questionable behaviour and even unacceptable physical responses on several occasions. The mother had, as a result of such actions, been banned from contact with the child and was ordered to undergo psychological and anger-management assessment to help her strengthen her coping skills when responding to the child. Psychiatric evidence presented to the Tribunal concluded that there were no psychiatric reasons why each parent could not care for the child although it was conceded that the mother did show signs of a personality disorder.

In the Tribunal's opinion, during the hearing and presentation of evidence, the mother failed to show that she was aware of the full extent of her conduct. The Tribunal specifically noted that she had been reluctant to undergo anger-management therapy and counselling, and also resisted efforts to develop a case plan for the child's future arrangements. It was acknowledged that the mother's desire to expand her relationship with the child would be reasonable in normal circumstances. The inability of the Tribunal, however, to discern any sense of remorse in the mother's conduct over her untoward manner with the child, along with displays of impulsivity, frustration, lack of control and impatience, presented an unacceptable risk to the child's well-being in an unsupervised environment.

Decision

The Tribunal regretted that while the child's mother was seemingly unsuitable to be granted unsupervised contact, the child's father had shown commendable behaviour in supervised visits. Notwithstanding this, the Tribunal was adamant that the father's support of the mother's application showed that his insight and judgment were impaired. It also noted that that father had not explained the cause of the child's original injuries. Therefore, the Tribunal decided that the claims of both parents should be treated similarly. The Tribunal confirmed the department's decisions to limit contact to supervised visits for the child's father and mother.

Financial information



The full financial details relating to the Tribunal's operations are reported in the Department of Justice and Attorney-General's annual report for 2005–06.

The table below shows the Tribunal's operating expenses for the financial year from 1 July 2005 to 30 June 2006. The actual funding received through the Department of Justice and Attorney-General for this period was \$1,238,170.38.

Operating expenses	
Employee-related expenses	\$396,320
Supplies and services	\$575,057
Depreciation and amortisation	\$ 1,443
Total	\$972,820
Operating result	\$265,349

Appendix 1: Tribunal members

Current members 2005–06

Member	Category	Region
Susan Gardiner (President)	Legal	Brisbane
Susan Bothmann	Legal	Brisbane
Robert Bulley	Legal	Brisbane
Michelle Dooley	Legal	Gold Coast
Penny Feil	Legal	Toowoomba
Rob Grant	Legal	Brisbane
Michelle Howard*	Legal	Brisbane
Mark Johnston	Legal	Cairns
Lyn Johannessen	Indigenous	Brisbane
Elizabeth Benson-Stott	Indigenous / Professional	Wide Bay
Gwen Schriber	Indigenous / Professional	Cairns
Julie Ford (Deputy President)	Professional	Brisbane
Glenda Alexander	Professional	Brisbane
Johanna Bakermans	Professional	Brisbane
Alexander Brands	Professional	Brisbane
Dr Nigel Collings	Professional	Gold Coast
Jennifer Felton	Professional	Brisbane
Dr Alison Harris	Professional	Brisbane
Alison Holm	Professional	Brisbane
Ron Joachim	Professional	Brisbane
Rosemary Kyburz	Professional	Brisbane
Gwenn Murray	Professional	Brisbane
Maureen O'Regan	Professional	Brisbane
Carol Peltola	Professional	Brisbane
Dr Stephen Stathis	Professional	Brisbane
Shirley Watters	Professional	Brisbane
Jennifer Wiltshire	Professional	Brisbane
Kim Richards	Young Person / Professional	Brisbane

* *Currently on leave.*

The President and Registry acknowledge the valued contribution of the following members whose appointments ended during 2005–06, in particular, the inaugural president of the Tribunal, Beverley Fitzgerald.

Damian Bartholomew	Alexis Hailstones	Brett Nutley
Darielle Campbell	Margie Kennedy	Monica O'Callaghan
Bruce Doyle	Margie Kruger	Lou Pope
Beverley Fitzgerald	Anne Landsberg	Dr Richard Roylance
David Gardiner	Ann-Maree McDiarmid	Keith Slack
Virginia Hall	Majella Meehan	Sue Waterman

Appendix 2: Object and principles of the Tribunal

Extract from the *Children Services Tribunal Act 2000*

Object

Section 6

The object of this Act is to establish the Children Services Tribunal –

- (a) to provide merit reviews of reviewable decisions that are accessible, fair, informal, just and quick; and
- (b) to make decisions in a review that promote the interests, rights and wellbeing of the child about whom the reviewable decision was made; and
- (c) to conduct proceedings in a way that –
 - (i) promotes the interests, rights and well-being of the child involved in the proceedings; and
 - (ii) uses adversarial and inquisitorial procedures, as appropriate, to arrive at the best possible decision in the circumstances; and
- (d) to foster an atmosphere of review that enhances the delivery of services to children.

Principles for administering this Act

Section 7

- (1) This Act is to be administered under the principle that the welfare and best interests of a child are paramount.
- (2) Subject to subsection (1), this Act is also to be administered under the following principles –
 - (a) in decisions involving a child, the child's view and wishes should be taken into account in a way that has regard to the child's age and ability to understand;
 - (b) every child is entitled to be protected from harm and cared for in a way that promotes the child's well-being;
 - (c) every child is entitled to be treated in a way that respects the child's dignity and privacy;
 - (d) it is generally in a child's best interests that decisions about the child's welfare are made as quickly as possible;
 - (e) a child entitled to start, or participate in, a review –
 - (i) should be given the information and help necessary for the child to do so; and
 - (ii) should have access to appropriate representation;
 - (f) Aboriginal tradition and Island custom must be taken into account in matters involving Aboriginal people and Torres Strait Islanders;
 - (g) the cultural practices of persons involved in a review must be taken into account to the extent they are relevant to the review;
 - (h) the relationship between a child and each significant person in the child's life should be preserved unless to do so would not be in the child's best interests;
 - (i) the tribunal should have all relevant material before it for making a decision.

Appendix 3: Decisions that can be reviewed by the Tribunal

Reviewable decisions – *Child Protection Act 1999* (right of review is conferred by s247)

- Directing a parent in relation to a supervision matter stated in a child protection order (s78) (aggrieved party must be parent given the direction)
- Deciding in whose care to place a child under a child protection order granting the chief executive custody or guardianship (s86(2)) (aggrieved party must be child's parent or the child)
- Not informing a child's parents of person in whose care the child is and where the child is living (s86(4)) (aggrieved party must be parent given the notice or the child)
- Refusing to allow, restricting, or imposing conditions on, contact between a child and the child's parents or a member of the child's family (s87(2)) (aggrieved party must be person affected by the decision)
- Removing child from carer's care (s89) (aggrieved party must be carer as defined in s91 or the child given notice under s90(4))
- Refusing application for, or renewal of, licence unless refused because person mentioned in s126(b)(i) or (ii) does not have current positive prescribed notice (blue card) (s129) (aggrieved party must be applicant or existing licensee)
- Refusing application for, or renewal of, a certificate of approval as an approved foster carer or an approved kinship carer unless refused because a person mentioned in s135(1)(a)(iii) or (b)(iv) does not have a current positive prescribed notice (blue card) (s136) (aggrieved party must be applicant or existing certificate holder)
- Cancelling an authority (s140AG(3) or (4) or 140AH) (aggrieved party must be authority holder)
- Refusing an application for an amendment of authority other than a provisional certificate (s137) (aggrieved person must be authority holder)
- Amending an authority other than a provisional certificate (s138) (aggrieved person must be authority holder)
- Suspending or cancelling an authority other than a provisional certificate (s140) (aggrieved person must be authority holder)
- Arranging for an interstate welfare authority to assume custody of guardianship of a child (s245)
(Aggrieved party must be a person issued a notice under s245(6))

Reviewable decisions - *Commission for Children and Young People and Child Guardian Act 2000* (right of review is conferred by ss121 and 140B)

- The issue of a negative notice (s102(4) or (7))
 - The cancellation of a positive notice and substitution of a negative notice (s119B(2))
 - The cancellation of a positive notice which was suspended (s119D(3))
- For these applications:
- The applicant is the person issued with the negative notice or the cancellation of the positive notice.
 - The decision under review is the decision by the Commissioner as to whether or not there is an exceptional case under one of sections mentioned above.
 - s121 (2) prohibits the Tribunal from issuing a stay.
- The suspension of a positive notice under s119C(1) because the person had been charged with an excluding offence (s121)
(The applicant must be claiming he or she has not been charged with the relevant excluding offence)
 - Application made by the Commissioner for review of a reviewable decision specified in s140A (Applicant is the Commissioner)

Reviewable decisions – *Adoption of Children Act 1964* (right of review is conferred by s14D)

- A decision to remove a person's name from an adoption list, expression of interest register or assessment register on the basis of eligibility or non compliance with a regulation (ss13AA, 13AC; 13E) (Applicant is a person/s whose name is removed)
- An unfavourable assessment of a person whose name is in an adoption list or expression of interest register (ss13AE 13AF & 13B) (Applicant is a person unfavourably assessed)
- An unfavourable assessment based on criminal history alone (s14B) (Applicant is a person/s unfavourably assessed)
- An assessment of a prospective adopter whose name is in an assessment register or in whose favour an interim order is made (s14)
(Applicant is a person unfavourably assessed)

Reviewable decisions – *Child Care Act 2002* (right of review is conferred by s163)

- Refusing to issue the licence or to issue the licence on a condition (s19) (Applicant is an applicant for a licensee)
- Refusing to renew the licence (s21) (Applicant is a licensee)
- Refusing to amend the licence in a way the licensee has applied for (s40) (Applicant is a licensee)
- Amending the licence other than in a way the licensee has applied for or agreed to (s42) (Applicant is a licensee)
- Amending the licence other than in a way the licensee has applied for or agreed to (s43) (Applicant is a licensee)
- Suspending or revoking the licence (after issue of a show cause notice) (s45) (Applicant is a licensee)
- Refusing to amend the licence in a way the licensee has applied for (s51) (Applicant is a licensee)
- Suspending a licence immediately (s46) (Applicant is a licensee)
- Refusing to lift the suspension of the licence (s 50) (Applicant is a licensee)
- Refusing to extend the transitional licence period or to extend the transitional licence period other than for the further period the personal representative has applied for (s54) (Applicant is a personal representative of the estate of a licensee who has died)
- Giving a prohibition notice to a person (s107) (Applicant is a person given notice)
- Refusing to cancel a prohibition notice in force for the person (s108) (Applicant is a person given notice)
- Refusing application for an approval of qualification mentioned in s109 or s110 of the Child Care Regulation 2003 (s111) (Applicant is a person whose application is refused)

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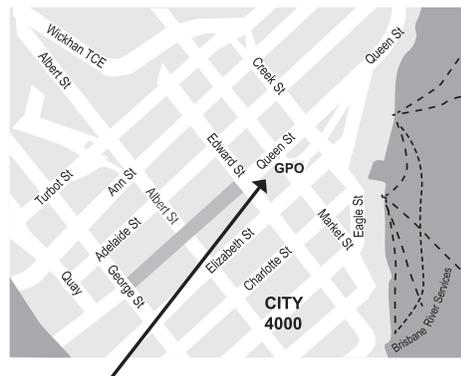
Email: cst@justice.qld.gov.au

Website: www.justice.qld.gov.au/cst/



Where we are:

The Registry is located on level 9 of the BOQ Centre at 259 Queen Street, Brisbane, and the hearings rooms are located on level 10. This building is located next door to the GPO and MacArthur Central Shopping Centre on the corner of Queen and Edward Streets.



The building has complete access and facilities for people with disability. The lobby area of the building is on street level with no stairs or inclines to negotiate.

The nearest public parking stations are located under MacArthur Central Shopping Centre, King George Square, Myer Centre or the Wintergarden.

If you are travelling by train, the closest train station is Central Station.

If you are travelling by bus, most buses drop off in Elizabeth Street, under the Myer Centre, in Adelaide Street or in Ann Street. All these roads run parallel to Queen Street.