

Children Services Tribunal  
Annual Report 2006 – 2007

## 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](mailto: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 Blake, aged eight, for the artwork on the front cover of this report.

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# Letter of transmittal

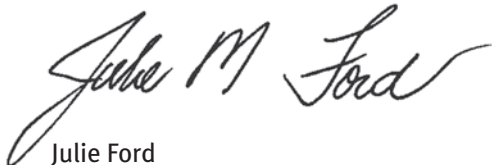
11 October 2007

Honourable Kerry Shine MP  
Attorney-General, Minister for Justice  
and Minister assisting the Premier in Western Queensland  
18th Floor  
State Law Building  
50 Ann Street  
Brisbane Qld 4000

Dear Attorney-General,

In accordance with the requirements of section 146 of the Children Services Tribunal Act, it is with much pleasure that I present to you the annual report of the Children Services Tribunal for the year ending 30 June 2007.

I commend this annual report for 2006–07 to you.

A handwritten signature in black ink, reading "Julie M Ford". The signature is fluid and cursive, with the first name "Julie" and last name "Ford" clearly legible.

Julie Ford  
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; reviewable decisions as specified in S.140A of the *Commission for Children and Young People and Child Guardian Act 2000*, on application by the Commissioner; 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 2006–07 include:

- achieving an application clearance rate of 90%
- promoting greater public awareness through communication strategy initiatives such as cross agency community education sessions, particularly in regional Queensland
- reviewing and streamlining case management processes
- producing information guides specifically tailored for vulnerable young people
- projects undertaken by different tribunal members allowing their specific skills and experience to enhance the work of the tribunal
- promoting greater awareness and transparency of tribunal processes by continuing to publish 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 additional tribunal members and support staff
- providing extensive training and professional development for tribunal members on various topics including the legal processes of the child protection system, considering exceptional case factors and cross cultural skills training



## President's report



*Julie Ford, President*

It has been an honour to be in the role of Acting President through the first part of this financial year and then to be appointed as President of the Tribunal in April 2007. In this time, there has been a period of consolidation within the tribunal with a relatively new registrar and president working closely with both the tribunal members and registry staff to continue the complex work of merit review in the best interests of children.

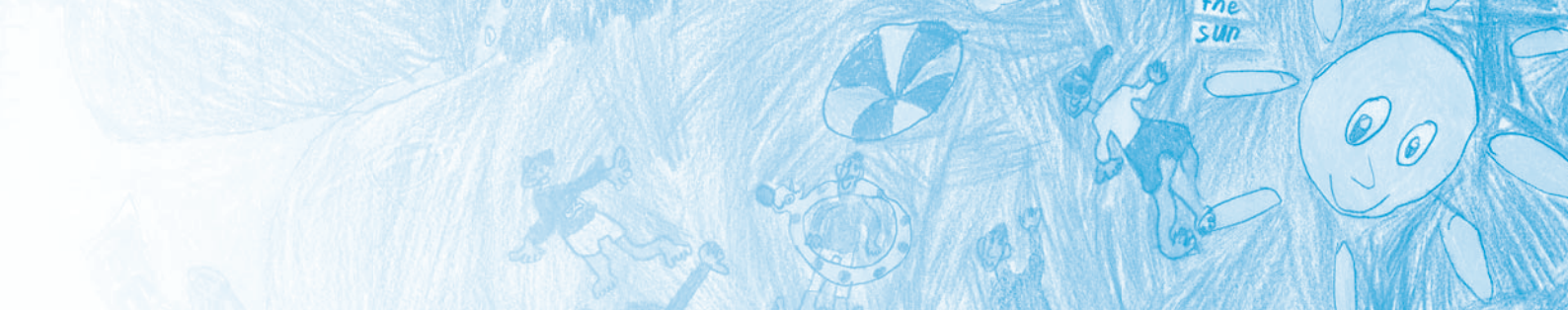
The core business of the tribunal continues to be case managed by a committed registry staff and registrar. It is an absolute privilege to work with such a dedicated team and the support to tribunal members is exemplary.

I thank the many stakeholders who have also engaged in respectful and collegiate interactions with the tribunal to progress our efforts to improve the lives of individual children and to provide an atmosphere of review that enhances services to children. I cannot thank enough the tribunal membership, who have all played varying roles within the organisation, while there has been no appointed Deputy President in this last year. Equally, the tribunal has worked closely with the Director of Child Safety (Department of Justice and Attorney-General), Megan Giles, in addressing a range of systemic and legislative initiatives in the past year and Megan's support and sharing of information is very much appreciated.

This year we have maintained the structure of the annual report introduced in 2005-2006. We have been informed by a range of sources that last year's report proved to be an effective information and training tool within the child protection sector and for people coming into the area for the first time.

Last year the report focussed on the merit reviews of decisions made by the Department of Child Safety in particular. This year we focus on the review process on decisions made by the Commissioner for Children and Young People and Child Guardian regarding 'blue cards'. The majority of review matters are still about decisions made by the Department of Child Safety. However, the complex legal issues and the practices of the tribunal, relating to the review of negative (unsuitability) notices which prohibit people working with children, are worthy of exploration this year.

The tribunal membership has increased with the appointment of five new members in October 2006. In the total membership of 32 people, we now have a cohort of ten legal members, three Indigenous members and a number of other professionals from different backgrounds, with experience in child protection. We have a greater presence of members in regional areas as well. With five different pieces of legislation in which to become familiar, the mix of child protection expertise and legal expertise is a fundamental advantage in the merit review process.



In keeping with previous years, the tribunal has had an increase in the number of review applications. In the case of child protection decisions, the majority of applications reflect the experiences of very vulnerable children who are in the care of the Department of Child Safety and the difficult decisions needing to be made around the type of contact children should have with family from whom they have been removed and with whom they should live. These cases can be fraught with anxiety for both the applicants, the children and the representatives of the Department of Child Safety and the witnesses called to a hearing. The tribunal acknowledges the process can be stressful with conflict evident between parties and witnesses. It aims to minimise these difficulties through skilled registry case management, and then by members' procedural skills at the preliminary conference or hearing phases.

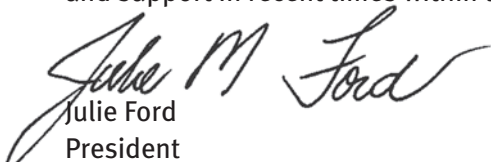
Part of the strategic planning focus for 2006-2007 was on consolidating our practices and upskilling relatively new members on the tribunal. An emphasis on increasing the awareness of the work of the tribunal led to training sessions for both community child protection services and the Department of Child Safety in regional areas, as well as here in Brisbane. We have been particularly engaged in developing ways in which young people in care can be informed of their rights to seek review of certain decisions that affect them. This has led to updating our material for children and young people and to meeting with key stakeholders to discuss these issues.

A number of tribunal members and registry staff have attended conferences and forums, representing the tribunal and its work. I am very appreciative of the way in which members seek to be involved beyond conducting hearings and how they willingly engage in professional development opportunities to enhance their skills.

Child protection is complex and demanding. It is fitting to acknowledge the great work undertaken by so many different people whether family members, carers, advocates, government or non government service providers in Queensland. The tribunal has the privilege of being informed of their efforts within the merit review context. There has been significant change since the Crime and Misconduct Commission enquiry in 2004. There will always be further work required to protect vulnerable children from abuse. Tribunal members and staff are committed to improving children's lives and to the legislation which guides our work.

In November 2006, Susan Gardiner was formally appointed to the position of President of the Guardianship and Administration Tribunal, thus officially ending her term as President of the Children Services Tribunal. Susan built on the strong foundations within the Children Services Tribunal through open and inclusive leadership. A positive collegiate relationship exists between the two tribunals. There is a sharing of some administrative functions, sharing of hearing rooms and joint training occurs, covering generic issues relevant to tribunals with protective jurisdictions.

In early 2007, Michelle Howard formally resigned from the tribunal, being reappointed to the position as the Public Advocate and Dr Alison Harris resigned due to her work commitments within the health sector. Sincere thanks to you both, and to Susan, for your commitment, care and support in recent times within the tribunal.

  
Julie Ford  
President

## Who we are



Dean Williamson, Tribunal Support Officer

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### Tribunal's role

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**T**he tribunal was established in 2000 to provide merit-based reviews of reviewable decisions that are accessible, fair, informal, just and quick.

The tribunal is required to conduct its proceedings and to make decisions in a way that promotes the interests, rights and well-being of children. Although the tribunal can legislatively use both adversarial and inquisitorial procedures as appropriate to arrive at the best possible decision in the circumstances, we are committed to minimising conflict between parties. The tribunal relies heavily on the mediation and conciliation skills of its members to ensure procedural fairness. The tribunal engages parties where possible in the resolution of issues, particularly in regard to child protection applications. When a review goes to a hearing, the tribunal will make the decisions required of it on the findings of fact after considering all of the evidence, the issues before it and the legislation.

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 provision of a tribunal registry to support the tribunal and its members is authorised under the *Children Services Tribunal Act*. The registry and staff is provided by the Department of Justice and Attorney-General, with the registrar and staff employed under the *Public Service Act*.

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 Case Manager (see below); one Senior Tribunal Support Officer; two Tribunal Support Officers; and two Administration Support Officers.



*Children Services Tribunal Registry staff: Kaye Whiteman, Sally Harper, Mychelle Naylor, Luke Tilley, Elisa Robbins, Rose Duncan and Dean Williamson.*

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.

A temporary Senior Case Manager position was created in 2006-07 to undertake a review of case management procedures and to assist in the implementation of a computerised case management system which will ensure efficient operations of tribunal processes. The case management system will help the registry administer and manage applications.

The tribunal registry is co-located with several other government agencies at BOQ Centre, Level 9, 259 Queen Street, Brisbane. See back inside 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 enquiries, 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.

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 work undertaken by the registry can be complex and demanding. The tribunal is fortunate to have a committed registry team that works well together to efficiently and effectively manage its important workload. The tribunal wishes to acknowledge the important work performed by the registry staff in 2006-07.

## Who we are (continued)



*Mychelle Naylor,  
Administration Officer*

### Meet the Tribunal Administration Officer

My name is Mychelle and I am the Registry Administration Officer. In early 2006 a position was permanently created within the Children Services Tribunal to carry out some of the administrative functions that were previously provided by another tribunal. I was selected for this position which is located within the Guardianship and Administration Tribunal registry as part of a combined administration team.

My duties cover a wide range of areas within finance, human resources and registry administration. The finance area encompasses the payroll, assets, purchasing, payment of accounts, and some budget work. There are numerous policies, procedures and legislation that govern this finance area. I am responsible for booking all the travel and accommodation for the tribunal. In the human resource area I process all the paperwork for new employees and tribunal members together with higher duties claims, overtime and timesheets.

In my previous position I was a Tribunal Support Officer within the registry and this has enabled me to assist the registry with hearing support and client enquiries at registry reception.

There are various other tasks that I also undertake one of which is helping to organise the tribunal members training throughout the year. This involves setting up the venue, booking accommodation and organising training material. I also assist the Guardianship and Administration Tribunal in the areas of finance and administration on a regular basis.

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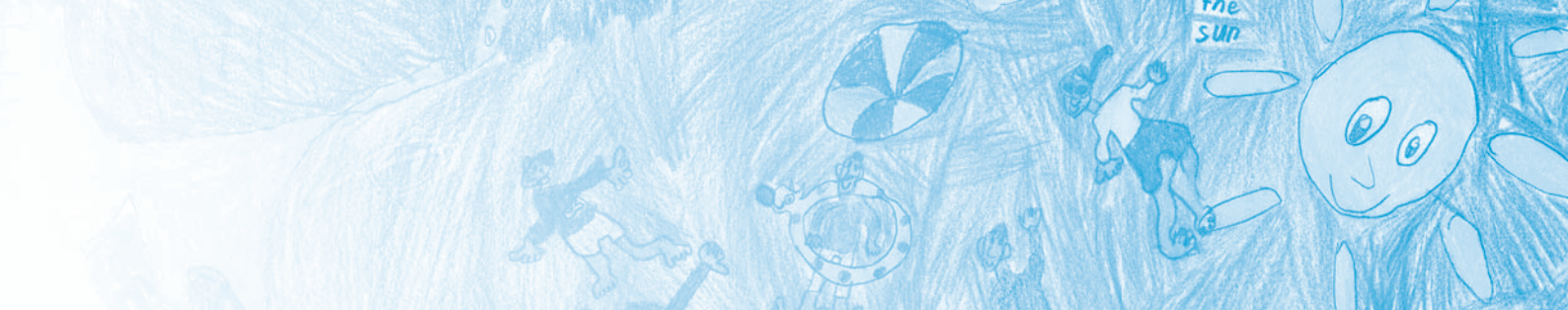
### The Tribunal

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We are a group of professional and community minded people with experience in child protection that constitute the tribunal. The tribunal is independent of government, although registry staff are employed by the Department of Justice and Attorney General. Tribunal members are appointed by the Governor in Council.

The tribunal is comprised of a President, a Deputy President (position currently vacant) and there are 31 members. Within this membership there are ten lawyers, three Indigenous members, seven social workers, two members with social work and law degrees, four psychologists (including an Indigenous member), a criminologist, an educationist, a speech pathologist, a young person representative and two medical practitioners (child psychiatrists).

The existing President holds a social work degree and the legislation allows for all members to have the opportunity to be the presiding member on the review panel. The President is not subject to direction by the Minister in performing or exercising the president's functions or powers. The legal expertise and child protection expertise within the membership ensures the multi-disciplinary panels are well placed to hear complex and difficult review matters.



While the majority of members appointed live within the Brisbane region, we have recently had an increase in regional members with members now located in Cairns, Townsville, Rockhampton, Hervey Bay, Sunshine Coast, Gold Coast, Ipswich and Toowoomba as well.

#### Meet a member – Rosemary Kyburz

Rosemary has been a tribunal member since the inception of the tribunal in 2001. Her professional and academic background has equipped her to assist the tribunal in its decision making with her knowledge of a wide range of social welfare and child protection issues.

From teaching English in Argentina to packing chocolates in Switzerland, Rosemary has had various jobs in several countries. With education qualifications, she has taught at all levels from early childhood to adult tertiary and special education. She has also taught in the prison system.

As a previous member of the Queensland Parliament, Rosemary was outspoken on many issues. She was the first sitting MP in Australia to have a baby while in Office.

Lecturing in social welfare and human services has given her an insight into many of the support organizations throughout the state. Some of her academic interests include developing social policy for an equitable society and the psycho-social contexts of human development. These interests enhance the tribunal's breadth of expertise.

Rosemary has had extensive involvement in community organisations and charities, including 12 years on the Council of Family Planning, various school and sporting committees.

#### Meet a member – Lyn Johannessen

Lyn has worked in Education, Corrective Services and the Aboriginal Women's Legal and Advocacy Service over the last 20 years specifically with her own people. As well as being a member of this tribunal, Lyn is also an Indigenous member on the Mental Health Review Tribunal with Gwen Schrieber.

Lyn is currently studying for a Bachelor of Laws degree.

In her spare time Lyn attempts to spend time with her nineteen grandchildren. She will be a grandmother again this year and a great grandmother for the first time.

Lyn is proud of her heritage. She attempts to ensure that the Traditional values and customs taught to her by her grandparents and respected elders are a part of her daily life. She is committed to instilling these values and traditions in her children and grandchildren.

Lyn brings great dignity and wisdom to the tribunal and is highly regarded in her community.



*Rosemary Kyburz and Lyn Johannessen,  
Tribunal members*

# Case study 1

## Mother seeks review of contact decision

### *Background*

The application for review was made by a mother who had a significant intellectual disability. Her two and a half year old daughter had been placed in alternative care since birth; she had been diagnosed as having an emerging developmental delay and was considered to be at risk of intellectual impairment. Early intervention strategies were crucial to maximising her potential.

The application was prompted by the decision of the Department of Child Safety to reduce contact from one hour weekly (supervised) to one hour supervised contact fortnightly.

At the Preliminary Conference the applicant was unrepresented and accompanied by her mother. It was apparent to the Tribunal that this mother's right to appeal this decision would be compromised unless she was assisted to present her case at hearing. Accordingly the President requested the Director of Legal Aid (Queensland) to give special consideration to this woman's need for legal representation given her disability. As a result, she was granted legal aid for the purposes of the Tribunal hearing.

### *Evidence before the Tribunal*

At the hearing evidence was heard from a range of professionals from both government and non-government agencies. Assistance had been provided to the mother both during her pregnancy and following the birth. This was initially aimed at developing her parenting skills and more recently at supporting contact between mother and child. Information before the Tribunal clearly indicated that, while there was no dispute that this child was loved by her mother and extended family, long term alternative care was appropriate. In addition, it was reported that the mother had limited ability to respond to her daughter's needs during contact.

The Department of Child Safety emphasised the commitment to maintaining family contact and ensuring the child's sense of family identity. In making the decision, the tribunal took into account the Department's account of the efforts to balance the child's development needs and the intensive intervention required, while giving due consideration to her age and the need to ensure stability of placement.

The provision of Legal Aid to this mother is considered to have been crucial to her ability to experience natural justice by pursuing her right to appeal. Her wishes and other submissions were clearly and positively argued within the hearing.

### *Decision*

The tribunal was required to consider whether the decision to reduce contact was in the daughter's best interests. Although there was no dispute that the mother's wish was to ensure her daughter's wellbeing, the Tribunal was satisfied that the contact arrangements were appropriate at this time in the child's development. The decision to reduce contact was confirmed after careful consideration was given to the needs of this child.

## What we do



*Rob Grant, Paul McGrath and Shirley Watters, Tribunal members*

**T**he tribunal provides a forum for merit based review of decisions made in four distinct areas relating to children and young people. In so doing the tribunal's task is to look afresh at the decision and consider existing and new evidence. The tribunal does not have to rely on the rules of evidence, but must adhere to the principles of procedural fairness. The tribunal can confirm, set aside or vary a reviewable decision. If a decision is set aside the tribunal can substitute its own decisions or return it to the decision maker for reconsideration in accordance with directions given by the tribunal.

Reviewable decisions by the tribunal are embodied in 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*.

Amendments introduced in May 2006 led to new applicant categories being established with rights of review to the tribunal. The stage three reforms, from the recommendations of the Crime and Misconduct Commission, have led to kinship carers now having the same status as approved general foster carers. Similarly to people wishing to become foster carers, kinship carers must now apply for a certificate of approval to become a carer and must now apply for a blue card. Other adults living in the household must also apply for a blue card, expanding the scope of the categories of people within the jurisdiction of the Commission. These amendments to both the *Child Protection Act 1999* and the *Commission for Children and Young People and Child Guardian Act 2000* have led to new categories of applicants who have sort a right of review to the tribunal where they have been issued with a negative notice (CCYPCGA) or been refused a certificate of approval (CPA).

This year we highlight some areas of import where the tribunal is guided by its legislation in what we do (in Indigenous review matters) but also how we work with other stakeholders in the best interest of children (matters where children in care are not happy with decisions made about them).

## What we do (continued)

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### Aboriginal and Torres Strait Islander applicants, parties to review and subject children

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The *Children Services Tribunal Act 2000* makes special provision for recognising Aboriginal and Torres Strait Islander tradition and custom. It does this in a number of ways. The principles in the Act in section 7 state that Aboriginal and Torres Strait Islander customs must be taken into account in matters involving Aboriginal people and Torres Strait Islanders.

One way of doing this is by appointing Indigenous members. Section 28 of the Act requires that whenever practicable the tribunal must include an Indigenous member when hearing a matter that involves an Indigenous party. This member can offer guidance and cultural information to other members on the panel. Most importantly, the member can assist Indigenous parties to the review to feel comfortable and redefine what is being said in culturally appropriate ways. This is an important part of the accessibility of the tribunal.

The tribunal has an early trigger for determining if there may be a conflict of interest for an Indigenous member in being on a review panel. Our members are well known women and leaders in their communities and may know the children or families involved in the review. In the event that a conflict may be possible, another Indigenous member will sit on the panel.

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### The role of recognised entities in child protection

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Section 6 of the *Child Protection Act 1999* requires that a recognised entity (Indigenous organisation or individual) must be given an opportunity to participate in the decision-making process when a significant decision about an Aboriginal or Torres Strait Islander child is being made by the Department of Child Safety.

From May 2006 the *Child Protection Act 1999* requires the department to work collaboratively with the recognised entity for the child. Tribunal members should enquire about how the department met this obligation if it is not clear from the documents submitted in a review application.

The key functions of a recognised entity are to inform departmental processes at intake, investigation and assessment, in Scan teams, at Children's Court, in case planning and placement decision making.

The views of recognised entities in Department of Child Safety placement and contact decisions are vital elements of evidence referred to by tribunal panels in their decision making of review applications involving Indigenous children.



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## When children and young people in care are unhappy with decisions made about them

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Only three young people sought a review of a Department of Child Safety decision in their own right in 2006-2007. A number of applications from family members, carers or interested persons on behalf of a child were accepted by the President where it was considered that the applicant was not entitled to apply for a review and where it was considered in the child's best interests that the application be made.

When children in care of the Department of Child Safety are disaffected by decisions impacting on them, they also have the capacity to seek help from the Commission for Children Young People and Child Guardian. The Commission has the responsibility to oversee the provision of services provided to, and decisions made in respect of, children and young people within the child safety system and the juvenile justice system. The Commission can apply to the tribunal for a review of certain child safety decisions if the Commissioner is not satisfied with a decision, or the matter has not been resolved with the Chief Executive of the Department of Child Safety to the Commissioner's satisfaction.

It is acknowledged by the tribunal that the preferred way for children to have their issues addressed is through negotiation and discussion to achieve resolution in the best interests of the children concerned. The work of the Commission in responding to concerns raised by children in care is highly commended and supported by the tribunal. A tribunal hearing process may produce significant anxiety and stress for the child concerned.

It is not unreasonable, however, that some young people in particular may want an independent merit review forum in which to challenge decisions made about them. Children in care can have an independent separate representative appointed and/or leave granted for legal representation.

The tribunal continues to be engaged in ongoing discussions with the Department of Child Safety and with the Commission about the best ways children's issues can be heard. Running parallel to this commitment, the tribunal has also revamped its' young people's guides to the tribunal and continues to highlight children's rights of review in our external information sessions to both government and non government services.

### Tribunal submissions

In 2006-2007 the tribunal made submissions regarding minor amendments to the *Children Services Tribunal Act* for the Justice and other Legislation Amendments bill process, to the Crime and Misconduct Commission regarding its review of the reforms undertaken by the Department of Child Safety and to the Department of Child Safety consultation paper on Permanency Planning.

## What we do (continued)

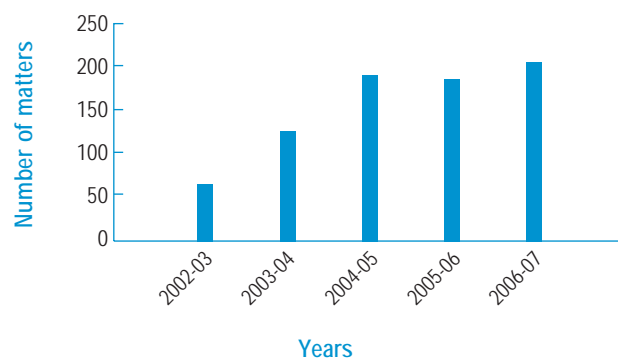
### Applications received

In 2006–07, the tribunal received 212 applications and completed 194 matters, representing a finalisation rate of 90% percent. There was a 15% increase in applications received from the 2005-06 figures.

Number of Cases	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
At start of year	13	18	38	66	76
Commenced during year	59	125	189	182	212
Finalised during year	54	105*	161	172	194
Non-finalised at end of year	18	38*	66	76	94

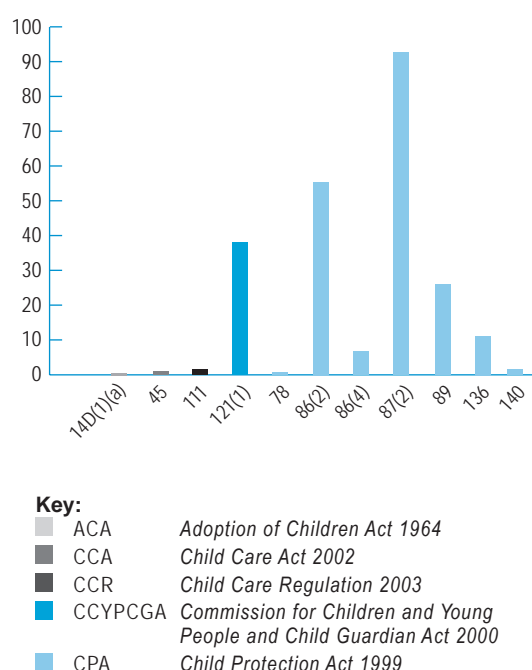
\*These figure have been revised

Table 1: Applications received



The most frequent applications for review related to decisions under the *Child Protection Act 1999* with regard to refusing and restricting contact between a child and members of the child's family (s87(2)), determining in whose care a child is placed (section 86(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



#### Guide to sections:

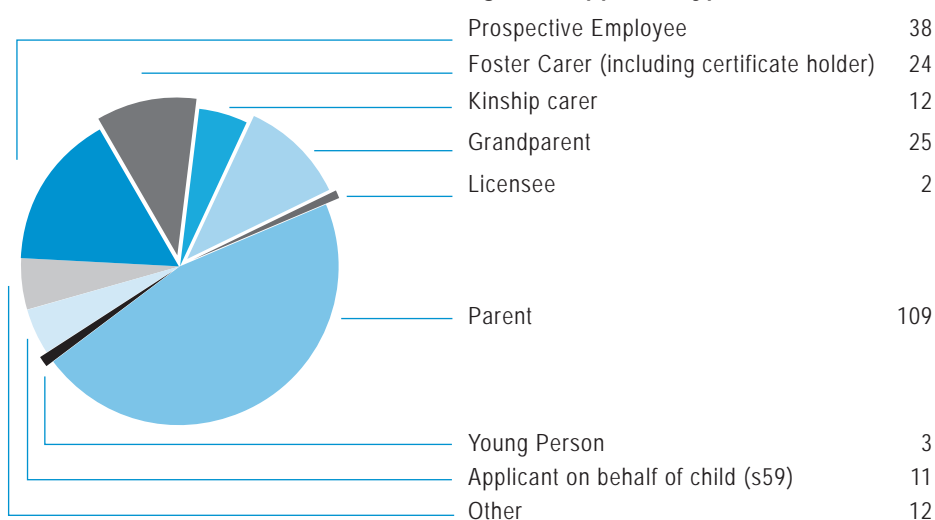
s14D(1)(a) ACA	decision to remove a person's name from an adoption list or register
s45 CCA	suspending or revoking licence (after issue of show cause notice)
s111 CCR	refusing application for an approval of qualifications
s121(1) CCYPCGA	Commissioner's decision to issue a negative notice regarding applicant's 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	suspending or cancelling an authority other than a provisional certificate
s163(1)(b)(11) CCA	amend licence other than in a way licensee has applied for or agreed
s163(1)(d)(1) CCA	give a prohibition notice to a person.

\*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 2006–07 were from parents seeking to have a decision on contact with their children reviewed. There was a small increase 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. There was a 35 percent decrease in applications received from foster carers from last year to this year. Following the legislative amendments to the *Child Protection Act* (as part of the stage three reforms) a new applicant category for Kinship Carers was established.

Figure 1: Applicant type



## Case study 2

### Applicant seeks review of decision to suspend Child Care Centre licence

#### Background

The applicant operated a number of child care centres throughout the State of Queensland and elsewhere. One of those child care centres was conducted in a regional centre in Queensland (the centre).

The Department of Communities (the Department) made a decision, pursuant to s.46 of the *Child Care Act 2002*, to urgently suspend the applicant's licence which enabled her to conduct her child care business at the centre.

The applicant lodged a Review Application seeking a Stay of the Department's decision.

#### Evidence before the Tribunal

The Department asserted that there had been ongoing complaints made against the centre for a period of approximately two years leading up to the decision to suspend the applicant's licence for that particular centre. Specifically, the qualifications of the staff employed at the subject centre and the ratio of staff to children had been of ongoing concern.

A meeting had been held and a plan was developed to address the Department's concerns over a short period of time.

Despite the plan a number of issues continued to arise such that the Department made the decision to urgently suspend the licence, causing the temporary closure of the centre.

The applicant acknowledged that both staffing levels and the qualifications of staff during the period complained of were problematical due in part to various staff members being on leave however she conceded that contingency plans could have been put in place.

She also gave evidence that the nominee of the centre was relatively inexperienced in running child care centres, and acknowledged that there should have been more frequent and clear communication

between herself and the nominee to ensure that the concerns were addressed in a timely fashion.

The applicant indicated that 90% of the children who had been enrolled at the centre had been absorbed into other child care centres in the area and that the staff had also been largely accommodated in these centres.

The applicant indicated that she was arranging for experienced and appropriately qualified child care staff to travel from interstate to Queensland with the intention that those staff would take up duties and remain at the centre until such time appropriate permanent staff could be employed. It was on that basis the applicant sought to stay the decision of the Department so as to allow the centre to reopen.

#### Decision

The tribunal took into account that the urgent suspension of the centre's licence expired in eight days time and that the applicant had until that time to address the issues raised. The tribunal also took into account that the applicant had done little to address the Department's concerns despite been raised over a significant period of time prior to the suspension decision. Notwithstanding that, the Department indicated that there would be no reason why the centre could not reopen at the end of the suspension period provided the concerns were met within that time.

The tribunal was reassured by the fact that the children who had attended the subject child care centre had been accommodated elsewhere and that the applicant was confident that the issues raised by the Department could be resolved by the date the suspension expired.

In all the circumstances, the tribunal decided not to grant a stay of the decision.

## How we do it



*Jenny Felton and the Honourable Robert Bulley, Tribunal members*

**T**he tribunal is guided by the *Children Services Tribunal Act 2000* with a clear commitment to making decisions which are in the best interests of children.

### Registry Case Management

The registry case management of applications that come before the tribunal requires skilled staff to manage often anxious or angry applicants. The flow of information and material is managed by the registry between the applicants and the respondents (in the majority of reviews being represented by the court services unit of the Department of Child Safety or the employment screening unit of the Commission for Children and Young People and Child Guardian (CCYPCG)).

The registry staff have respectful relationships with the staff of the respondent services, while remaining independent. Similarly, progressing an application through the various stages to the tribunal's preliminary conference and then to hearing requires courteous interactions with applicants, children and their families in often difficult and stressful periods.

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### Tribunal Decision Making

While the tribunal is required to provide merit-based reviews of reviewable decisions that are accessible, fair, informal, just and quick, it is also mandated to foster an atmosphere of review that enhances the delivery of services to children. The tribunal sees the written reasons required in a tribunal decision as a positive forum in which to both congratulate the efforts of protective measures taken but also to highlight areas of possible improvement as well.

The tribunal sits as a multidisciplinary panel of usually two members for CCYPCG reviews and three members for other review matters. There is always a legal member on the panel. Where the applicant or subject children are Aboriginal or Torres Strait Islander, an Indigenous member will be on the panel.

The tribunal has the legislative capacity to hold preliminary conferences before hearings.

## How we do it (continued)

These conferences allow for disputes to be resolved in many instances where the review matter is under the *Child Protection Act 1999*. Many tribunal members have training in mediation and alternative dispute resolution and use these skills to assist parties to consider resolution. The tribunal must ensure that the interests of the children subject to the review application are not lost in this process. Similarly to last year, a significant percentage of matters regarding children in care are resolved at the preliminary conference stage.

Most applicants and joined parties before the tribunal represent themselves and are not familiar with the proceedings. In many cases, they will be anxious and unsure. They will need assistance in presenting their cases as fully as possible and in the appropriate way. All members, particularly presiding members, have a responsibility to assist unrepresented persons to feel comfortable and confident by providing information and explanation about proceedings. At the same time, the tribunal panel must take care to reduce the risk of a perception of bias of advocacy for one party over another.

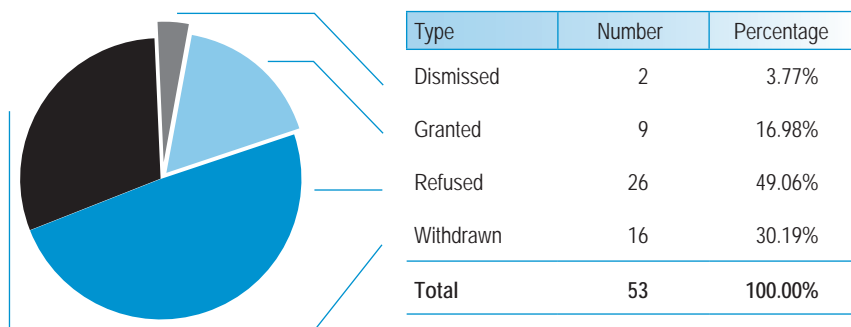
The intent of the legislation is clearly to avoid a court-like atmosphere in order to encourage parties to access administrative review as fully as possible. However, while assisting unrepresented parties, the panel must make sure that it does not breach the boundary between impartial decision maker and advocate.

### Stay of decisions

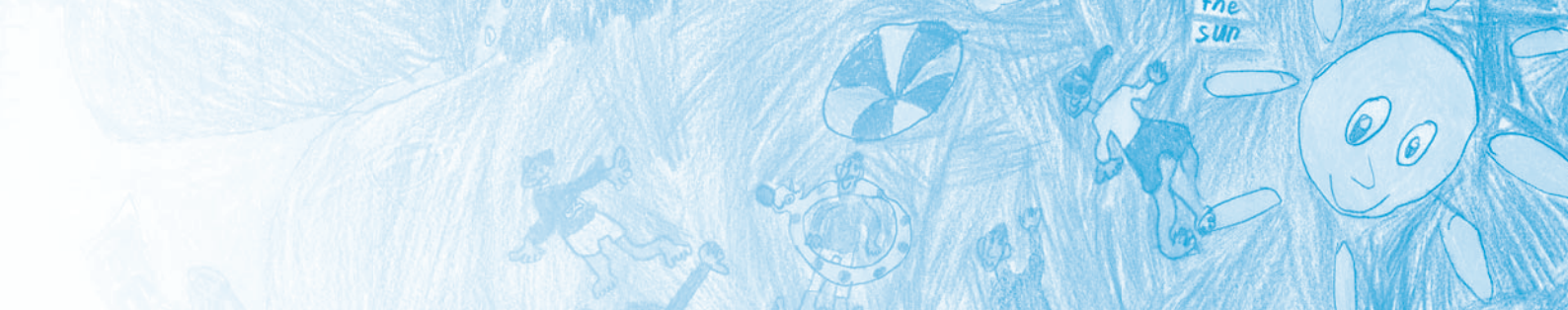
If the applicant has requested a stay of a departmental decision, the tribunal must hear the stay application as quickly as possible, usually within 14 days of the request being lodged. This occurs as part of the preliminary conference, with the tribunal generally relying on the material provided as 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.

In 2006-07 there were 53 applications for a temporary stay of the decision under review by the tribunal. Of the stay applications almost 50% were refused by the tribunal pursuant to section 70 of the *Children Services Tribunal Act*, which states the tribunal must consider certain factors, most importantly of which is the best interests of the child.

Figure 2: Stay applications outcomes



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 hearing 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.

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### Reviewing 'Blue Card' decisions

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Reviewing a decision by the Commissioner for Children and Young People and Child Guardian (CCYPCG) in issuing a negative notice requires the tribunal to consider not only different legislation but also the context in which the tribunal review is undertaken. The process at the preliminary conference is quite different to review matters involving Department of Child Safety decisions. Hearings that review these matters usually run for one day and there may only be a few witnesses giving evidence, including the applicant.

In CCYPCG matters the review generally goes to a hearing. The legislation does not allow for a 'stay' of the decision to issue a negative notice. The tribunal cannot engage in a dispute resolution process about 'blue card' decisions by the Children's Commissioner. After hearing all the evidence, the tribunal can confirm the Commissioner's decision to issue a negative notice or set the decision aside, thus granting a positive notice to the applicant. The tribunal can also set aside the decision and return it to the Commission for reconsideration in accordance with directions. This action has occurred only once since the tribunal's inception.

The tribunal cannot place conditions on a blue card or make recommendations, which it can with decisions relating to children in care. The tribunal must consider the best interests of the abstract child in these review matters as a blue card to work with children is transferable across any aspect of employment.

## How we do it (continued)



Mark Johnston  
Legal Member

### Risk and Protective factors considered in reviewing decisions by the CCYPCG

*By Mark Johnston, Tribunal Member*

This article sets out to explain the tribunal's approach to reviews by applicants who seek to overturn the decision of the Commission to issue of a negative notice (or refusal to grant a Blue Card).

The tribunal's paramount consideration on reviews is to promote the interests, rights and well being of the child (section 6(b) of the *Children Services Tribunal Act* ("the Act"). A key component of this object is the principle that every child is entitled to be protected from harm (section 7(b) of the Act).

The tribunal and the Commission for Children and Young People and Child Guardian (the Commission) have, in considering applications for the issue of Blue Cards, adopted the concept of "unacceptable risk" from the Family Law jurisdiction. This means that the Commission at the first instance and the Tribunal on the review will not issue a positive notice (grant of Blue Card for working with children) if this would expose children to an unacceptable risk of harm.

The leading case about the issue of a Blue Card is the Queensland Court of Appeal decision in *The Commissioner for Children and Young People and Child Guardian v. Maher [2004] QCA 492*. In *Maher's* case the tribunal undertook an exercise of identifying risk factors and identifying protective factors. The tribunal then found on balance that the protective factors outweighed the risk factors.

<p>The tribunal looks for examples of evidence based protective factors. The existence of these positive factors can be said to reduce the risk of harm to children. The converse or opposite position is that the absence of these factors increase the risk of harm to children. This table gives examples of evidence based protective factors.</p>	<ul style="list-style-type: none"> <li>▶ lack of violence</li> <li>▶ supportive wider family and community</li> <li>▶ good coping strategies</li> <li>▶ supportive employment</li> <li>▶ good relationship with partner</li> <li>▶ good relationships outside the family</li> <li>▶ a good job</li> <li>▶ a good main relationship</li> <li>▶ good friends</li> <li>▶ involvement in the community</li> <li>▶ successful undertaking of rehabilitative treatment</li> <li>▶ use of supports</li> <li>▶ positive school experiences</li> <li>▶ sense of mastery and a belief that one's own efforts can make a difference</li> <li>▶ participation in a range of extra curricular activities</li> <li>▶ the capacity to reframe adversities so that the beneficial as well as the damaging effects are recognised.</li> </ul>
<p>The circumstances surrounding the offending behaviour.</p>	<p>The tribunal is required to focus on the offending behaviour and the issues that arise from that. e.g. if there is substance abuse or behavioural issues such as domestic violence. An applicant assists the Tribunal by providing:</p> <ul style="list-style-type: none"> <li>▶ an explanation of the offending behaviour</li> <li>▶ an explanation of the issues that lie behind the behaviour</li> <li>▶ details of the steps the applicant has taken to rehabilitate themselves.</li> </ul>
<p>Insight</p>	<p>An applicant's insight into his or her offending behaviour and strategies he or she has put into place to prevent a repeat occurrences is a critical factor in looking at risk. The existence of insight into the consequences can be said to reduce risk. Conversely if an applicant is not aware of the consequences of their behaviour that places children at greater risk</p>

Genuine Remorse	The tribunal looks to see if an applicant has acknowledged that he or she has caused harm to other people by his or her actions or what he or she as failed to do and is sorry for the harm he or she has caused. An applicant who understands the harm that has been done and expresses genuine remorse for that harm can be viewed as being of less risk of causing further harm. An applicant who demonstrates no remorse for harm that has been caused represents a greater risk factor of further harm being caused.
Character evidence	The tribunal is interested in hearing evidence from people who have seen the applicant work with children or otherwise involved with children and who know of the convictions. The Tribunal would normally expect that an applicant's spouse would be a character witness.
Life History	<p>The tribunal is interested in hearing about an applicant's:</p> <ul style="list-style-type: none"> <li>▶ childhood/upbringing</li> <li>▶ family life</li> <li>▶ school issues</li> <li>▶ work issues</li> <li>▶ relationship issues and</li> <li>▶ other relevant issues.</li> </ul> <p>This information allows the tribunal to look at the circumstances of an applicant's life and how they have dealt with the problems and situations that have occurred in their life. How a person has dealt with the problems of life can provide very useful information on a person's risk of harm to others.</p>
Independent Professional Assessments - Psychological Reports	Obtaining a report from an appropriately experienced psychologist can place extremely valuable independent evidence before the tribunal. The reports should cover such matters as: the adult's experiences growing up; issues around his/her criminal history; the adult's personality; insights into the offending behaviour; and any other relevant issue. The psychologist should also assess the adult's risk to children.

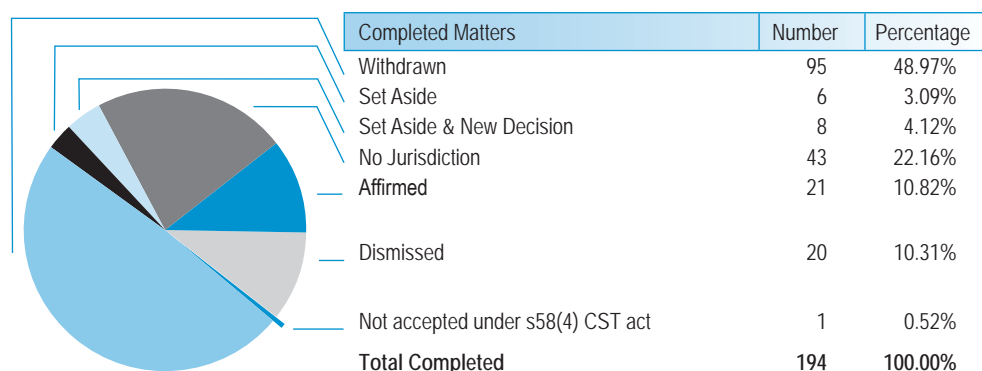
Risk factors may vary from the perspective of the assessor, but more particularly will vary according to the known facts. On one view of it, the existence of previous convictions means there will always remain the possibility of a risk to the safety of the community. However in the absence of some indication of actual risk, the position will be that the community is to be regarded not at risk. Risk in the context of the tribunal is not concerned with what may be mere possibilities, but rather to a situation which involves a recognisable potential for harm. The existence of that potential will require some foundation in fact. What will amount to a sufficient basis for such a view? This must remain an issue for each case, given the wide-ranging variations in circumstances which may present. What is the meaning of risk? The tribunal is looking at whether, in all the circumstances, there is a real and appreciable risk.

The more relevant information before the tribunal the better the quality of the decision made by the tribunal.

## Outcomes

The tribunal aims to complete the review process in a quick and efficient manner. In 2006–07, the tribunal finalised 70 percent of applications 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 and the court's decision would effectively decide the same issues, the tribunal's review must be suspended.

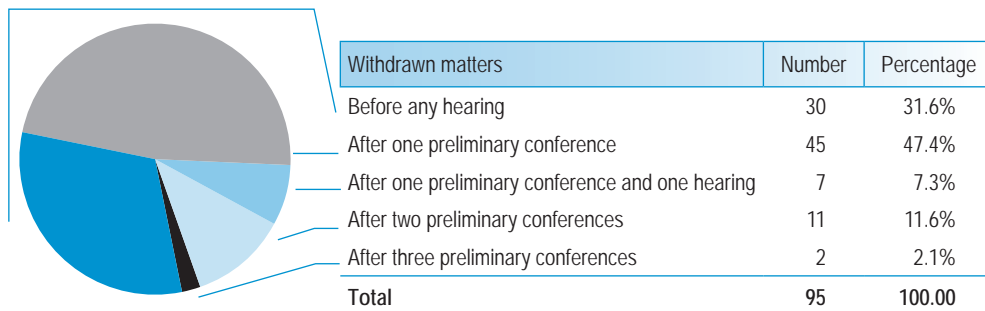
Figure 3: Outcomes



## How we do it (continued)

Approximately 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

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 Beenleigh, Cairns, Cooktown, Gladstone, Kingaroy, Mackay, Maroochydore, Maryborough, Mt Isa, Murgon, Roma, Southport, Toowoomba and Townsville in the past year.

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

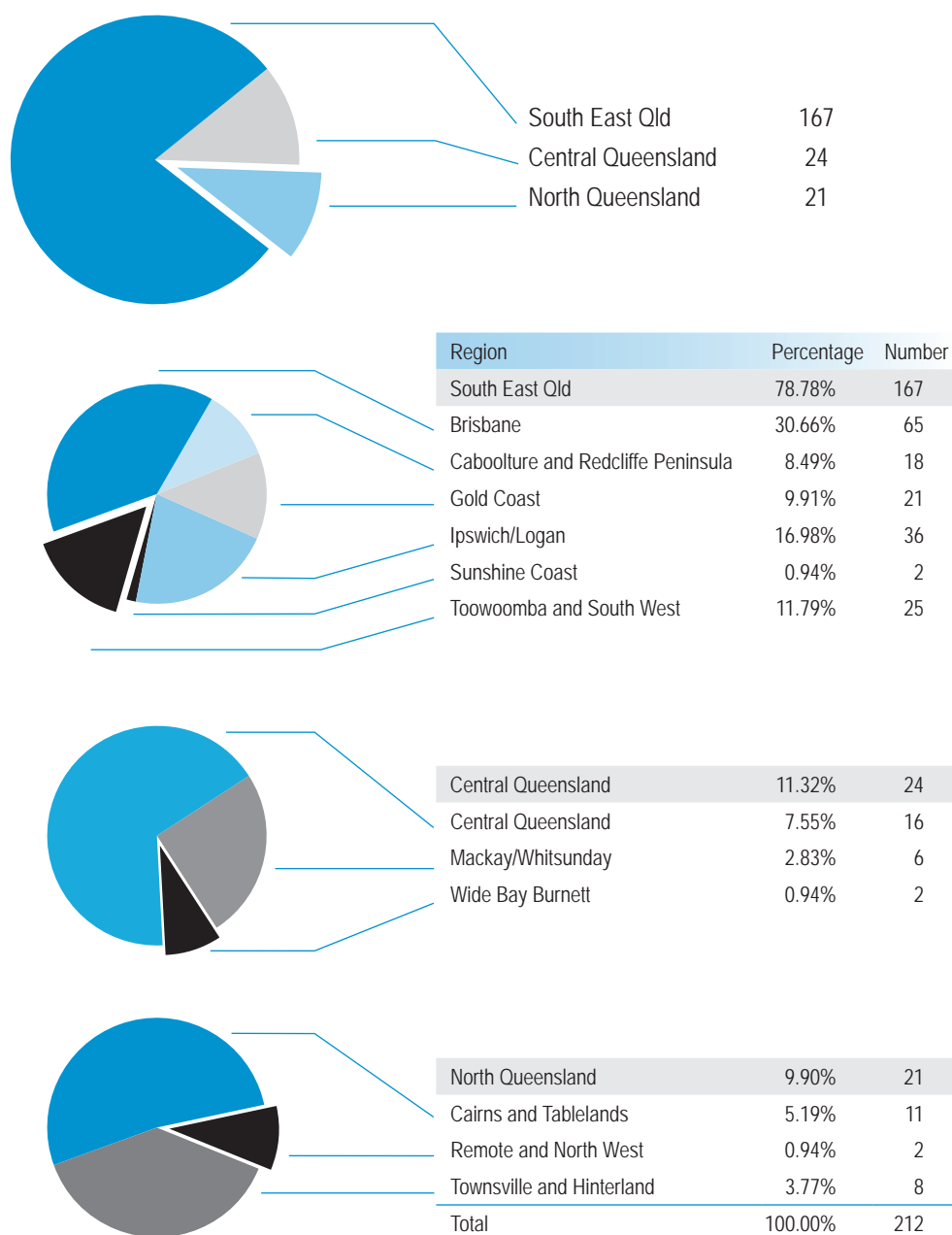
#### Locations of hearings held throughout the year



tribunal is also mindful of providing access to the tribunal to regional and rural Queensland. The tribunal appointed additional regional members in 2006-07 to increase applicants' access to regional hearings while curbing travel costs.

In 2006-07 there was an increase in the numbers of applications received from Central and North Queensland regions and subsequently an increase in the hearings that took place in these regions. The tribunal will continue to have a presence in regional Queensland in the future to ensure the voice of regional Queenslanders is heard.

Figure 5: Number of applications according to regional centres



# Case study 3

## Applicant seeks stay of decision to restrict contact

### *Background*

The Department of Child Safety (the Department) made a decision to restrict a grandmother's contact with her grandchildren. All the children were subject to Child Protection Orders granting short term custody to the Department.

All the children lived (some for nearly three years) with approved foster carers in a Queensland provincial city. It was not disputed that all children had been well cared for in this environment, including some who had special needs.

The grandmother resided in the same provincial city and had taken a significant interest in the children and had fairly regular contact with them in her home. The children's mother (applicant's daughter) was having contact with the children in the grandmother's house when she was available.

In late 2006 the Department decided that future contact should only take place at the local Community Centre to ensure that the mother's contact was properly supervised. The grandmother declined to attend this contact because she was confined to her home caring for her bedridden mother.

Subsequently the foster carers relocated (with the Department's approval) with all the children to another town, hundreds of kilometres away. The move was to last indefinitely. The three oldest children indicated a wish to remain with the foster carers on their move to the new location. Just prior to their departure the grandmother paid a special visit to the children.

The Department encouraged and was prepared to facilitate contact between the grandmother and the children by letter, cards and the phone; and to negotiate financial assistance for the grandmother to visit the children in their new location during school holidays.

The foster carers at all times facilitated contact and were supportive of contact between the children and their grandmother.

The grandmother filed an application seeking a review of the Department's decision restricting contact and a stay of that decision.

### *Evidence before the Tribunal*

The applicant submitted that because of her obligations to her mother she was confined to her home and so could not have physical contact with the children otherwise than in her home. The Tribunal was mindful that the grandmother as well as her mother would have developed a meaningful relationship with the children over the years.

Were the stay request to be granted the children would necessarily be returned to the city first mentioned and would need to be split up among several different new placements. The new carers would not be familiar with each child's developmental needs. The return to this city would constitute another move for the children thus disrupting the stability of their long held placement. The children would have to be separated. There would be a break in their emotional attachment with their current foster carers.

An application to grant long term guardianship to the foster carers had been filed but not yet determined in the Children's Court of the first mentioned city.

### *Decision*

The tribunal was satisfied that the relocation to the second town by the foster carers was bona fide on their part and not at all related to any suggestion of wanting to limit contact between the children and their grandmother.

The tribunal expressed sympathy for the grandmother's restricted contact opportunities as a result of the relocation. However the tribunal considered that it would not be in the best interests of the children for them to be uprooted so soon after their move, to be returned to various unfamiliar carers, to be separated from each other, to have their special needs placed at risk, and to break the stability and emotional ties of their relationship with the current foster carers, all this with the real possibility of being returned to the foster carers at a later date.

For these reasons the tribunal did not grant a stay of the contact decision.

## How we do it (continued)

### Members' professional development



Front Row left to right Penny Feil, Susan Bothmann, Ron Joachim, Shirley Watters, Paul Mc Grath, Jennifer Wiltshire, Suzanne Brooks. Middle Row left to right Louise McDonald, Rosemary Kyburz, Maureen O'Regan, Gwen Schrieber, Julie Ford, Glenda Alexander, Hon. Robert Bulley, Margaret Arthur, Julie Cowdroy, Kim Richards, Dr Jennifer Promnitz. Back Row left to right Alexander Brands, Elizabeth Benson-Stott, Mark Johnston, Johanna Bakermans, Jennifer Felton, Michelle Dooley, Rob Grant, Anne Demack, Alison Holm.

As with previous years, much effort is placed on providing relevant and dynamic training opportunities for tribunal members. It is vital that members are not only familiar with the various pieces of legislation that guide our work, but also to have insight into the big picture issues that impact on children and families and vulnerable children in care. Professional development within the tribunal is achieved through a range of initiatives.

Initially, new members are informed of our work through an induction process, observing preliminary conferences and hearing processes and provision of relevant materials. The latest cohort of appointees in November 2006 attended a two day induction process in December 2006. This induction involved individual tribunal members, registry staff and the acting president presenting different sessions on the legislation, the continuum of care, the child protection sector and on relevant stakeholders.

Comprehensive written material is also provided to focus new members within the different jurisdictions. Glenda Alexander, a professional member of the tribunal was engaged to develop a specific section for CST to complement the practice manual for tribunals developed by the Council of Australasian Tribunals (COAT). We now have a range of comprehensive resources as reference guides for tribunal members, both for induction, to instil exemplary practice, research and reflection.

Peer review practices remain located in the preliminary conference and hearing stages, with panel members reflecting on what was done well and what could be done better. Members' forums and training sessions facilitated by individual tribunal members allow for practice review of the way we work.

Additionally, tribunal member Gwenn Murray has been engaged to develop a performance management framework for tribunal members. This framework will be instituted in 2007-

## How we do it (continued)

2008. Performance appraisal and feedback should assist members to understand what work they do well, where their development needs are and how they can improve their performance. The framework will consist of key overarching principles with performance standards and key competencies with performance standards. The development of these standards will be undertaken in view of the diverse membership of the tribunal and the complexity of the matters that come before the tribunal.

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### Members' training

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Glenda Alexander,  
Tribunal member

In 2006-2007 there were three training events specific to tribunal members in August 2006, November 2006 and February 2007. Induction for new members occurred over two days in December 2006.

As with previous years, a percentage of time is created for individual members to present around their areas of expertise. Dr Nigel Collins spoke movingly on child development and the impact of trauma. Elizabeth Benson-Stott, Lyn Johannsen, and Gwenn Schrieber ran a powerful session on the exploration of identity for Aboriginal children: attachment versus disconnection. Jenny Felton and Penny Feil facilitated a lively discussion session on expert evidence and the appropriate use of tribunal knowledge. The Honourable Bob Bulley, Mark Johnston and Rob Grant generated much reflection on our practices in their session on legal

process and practice in preliminary conferences, stay hearings and hearings. Notable cases were presented by different panel members at each training event, including addressing the complex legal issues around the concept of exceptional case in 'blue card' reviews by the Hon. Bob Bulley.

Once again, presenters from the Commission for Children and Young People and Child Guardian and the Department of Child Safety informed the tribunal of new initiatives relevant to the tribunal. Sessions included amendments to the *Commission for Children and Young People and Child Guardian Act* and *Child Protection Act* and their impact on the tribunal (stage three legislative reforms and foster and kinship carers issues) and the CCYPCG points system used by the central screening unit. Further presentations were given by the Department of Justice and Attorney-General Director of Child Safety, Megan Giles on her role and updates on Legal Aid Queensland policies by Ross Beer.

Other external presenters were included in a joint training day in November 2006 with the members of the Guardianship and Administration Tribunal (GAAT). Cross-cultural skills for a culturally diverse community was presented by Margaret Bornhorst of Multicultural Affairs Queensland. Paulien Barkmeyer ran a joint session on communicating with parties in hearings.

One of the most beneficial sessions to members centred around the role of the non-government sector in child protection. This session included a panel of young people and service workers from CREATE, Family Inclusion Network, Youth Advocacy Centre and Integrated Family and Youth Services (Maroochydore).

We thank all of the presenters for their valuable input into keeping the tribunal membership up to date on child protection issues and initiatives.



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## External conferences and forums

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Tribunal members and registry staff show a strong commitment to expanding their knowledge base by attending conferences, forums and celebrations. These opportunities have included the following:

- Protecting Children Today: Child Protection Conference in Brisbane (August 2006)
- Youth Advocacy Centre: twenty five years celebration (October 2006)
- Seeking Stability: Early Years Forum hosted by CCYPCG (October 2006)
- Department of Justice and Attorney - General's International Women's Day celebration (March 2007)
- Child Protection Forum hosted by School of Human Services Griffith University (April 2007)
- Professor Anglin workshop on developing a more therapeutic model of residential care (May 2007)
- Their Lives Our Work Symposium hosted by Peakcare (May 2007)
- Australian Institute of Judicial Administration conference in Melbourne (June 2007)
- Department of Child Safety Child Protection Research Forums throughout the year
- Coalition of Administrative Tribunals (Queensland Chapter) forums throughout the year

## Our stakeholders

The tribunal interfaces with a wide variety of people and organisations in different settings in undertaking its work. At no time are individual cases discussed other than in the context of the hearing process, with strict confidentiality requirements adhered to. There are distinct protocols maintained to ensure the case management by the registry staff remains separate to the tribunal members' roles and responsibilities.

The registry conducts its case management of matters in liaison with the applicants and mainly with the court services unit of the Department of Child Safety in child protection matters and with the central screening unit of the Commission for Children, and Young People and Child Guardian (as respondents).

Our interface at the review process in child protection matters can include children and young people in care who want to give their views in review hearings, parents, family members as witnesses or applicants, foster carers, kinship carers, departmental staff, expert witnesses, representatives of recognised Indigenous entities, legal representatives, separate representatives on behalf of children, witnesses who are neighbours or friends of applicants and professionals from various services.

The specific stakeholders, with whom the tribunal has regular contact 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 on behalf of children)
- Foster Care Queensland (as agent for foster carers)
- Child Care Unit, Department of Communities
- Employment screening staff within the Commission for Children and Young People and Child Guardian.

The Children Services Tribunal Stakeholders' meetings continue to be an important forum for consultation and information sharing between the tribunal and child protection key agencies to remain up to date on legislative amendments, policies and procedures across the jurisdictions. Three stakeholders' meetings were held in 2006-2007.

As an adjunct to the hearing process, the tribunal is represented by the President, other members and the registrar at various meetings relevant to child protection issues and the tribunal's jurisdiction. In 2006-2007 meetings have included with the Attorney-General, the Director-General and Deputy Director-General of Justice, the Deputy Director-General of Child Safety, the Children's Commissioner, Foster Care Queensland, Legal Aid Queensland, the Dispute Resolution Unit, Court Services Unit management and Strategic Policy Unit of the Department of Child Safety. Tribunal representatives have met with a number of non government service representatives as well.

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

### Role of Child Safety Director

Child safety and well being is the responsibility of the government as a whole. The Department of Justice and Attorney-General and its agencies and statutory authorities play an integral

part in the child safety system. This role ranges from registering children's births and deaths, administering finances of children in care, prosecuting offences involving child victims and witnesses, providing legal representation and advice, and administering courts and tribunals. In recognition of this, and in accordance with the recommendations of the Crime and Misconduct Commission's report "Protecting Children: an inquiry into the abuse of children in foster care", the position of Child Safety Director within the Department of Justice was created.

The role of the Child Safety Director includes the promotion and support of the Department's role in the whole-of-government response to child protection, the coordination of the delivery of the Department's child protection services, leading the development of appropriate legislation, programs, policies and practices to meet the needs of children at risk of harm, and increasing awareness of children's rights and needs in the justice system.

The Child Safety Director works collaboratively with the members of the Children Services Tribunal and its registry to promote their participation in policy and legislative developments and to develop effective relationships within the Department and across government to improve services to children and young people in the child safety system.

The tribunal has representation on the Department of Justice and Attorney - General's Child Protection Stakeholders' Group as well.

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### Other community engagement activities

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The tribunal continues to fulfil its responsibilities to support and educate key service providers within the Child Protection System. In the last twelve months the President and Maureen O'Regan, a part time member, have delivered training sessions to the Court Services Unit, to Team Leaders and Child Safety Officers from the Department of Child Safety. This training assists participants to understand tribunal powers and procedures and their own responsibilities as parties to a review of a reviewable decision within the *Child Protection Act 1999*.

Training has also been provided to Foster Care Queensland's carers and foster care assistance and support team members (FAST). This training explains the tribunals role, procedures and the legal framework governing its activities. Individual sessions are created specific to the target group, thus foster carers would be interested in hearing about the different processes within the tribunal if they are applicants or if they are called as witnesses in a review matter.

The tribunal also conducted a training session and mock hearing specifically geared to Court Services Unit staff and court co-ordinators within the Department of Child Safety to assist their understanding of the key roles they play in the hearing context.

In furthering the tribunal's commitment to increasing its presence in regional areas, the president and members have undertaken training and information sessions to government and non government entities on the tribunal in Townsville, Mt Isa, Mackay, Rockampton and Bundaberg as well as in Brisbane in 2006-2007.

Training provides a valuable opportunity for dialogue between the tribunal and key stakeholders about the value of review in child protection work. This dialogue focuses on the importance of understanding not only the rights of children, young people, parents, kin and carers but also the protective intent of the legislation.



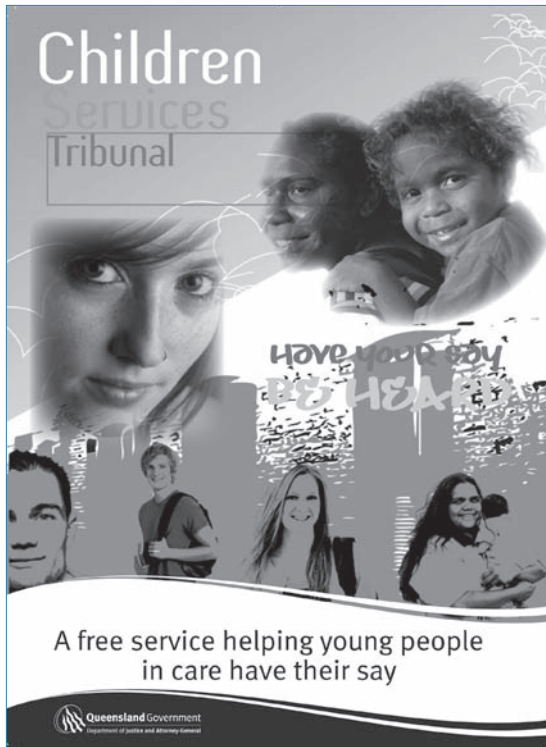
Maureen O'Regan,  
Tribunal member

## Our achievements

**T**he past year was a year for the tribunal to review and reaffirm our priorities. Listed below are the tribunal's major achievements during 2006–07.

- additional tribunal members and support staff were appointed, ensuring the tribunal achieved an application clearance rate of 90%.
- 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.
- promoting greater awareness through communication strategy initiatives such as cross agency community education sessions, particularly in regional communities
- various projects undertaken by different tribunal members allowing their specific skills and experience to enhance the work of the tribunal, including development of a Children Services Tribunal section for the COAT practice manual for tribunals which provides a comprehensive induction and reference tool for members
- reviewing and streamlining case management processes
- producing 'Have your say, be heard' information guides specifically tailored for vulnerable young people seeking information about the tribunal (see next page)
- promoting greater awareness and transparency of tribunal processes by continuing to publish de-identified decisions on the AustLII legal website
- providing extensive training and professional development for tribunal members on various topics including the legal processes of the child protection system; considering exceptional case factors and cross cultural skills training.
- the tribunal has undertaken strategic planning to ensure that the services provided by the tribunal continue to develop and improve.

## 'Have your say, be heard' – A Young Persons Guide to CST



This past year the registry aimed to update and improve the Children Services Tribunal's Guide for Young People. This is a guide that is made available to young people in care informing them about the tribunal's services and how to access the review process.

The original guide was first produced in 2002-2003, and it was time for an update.

The aim of the project team was to facilitate young people's participation in the re-development of the guide. Feedback was received on the various design options with the intent of producing a guide that connected with its intended target audience.

The project team, which included a representative of the Public Affairs Unit of the Department of Justice, workshopped

the content of the guide, as well as addressing the design. The information conveyed is written in plain language and is simple and concise and intends to demystify the review process.

After much discussion and planning the design was chosen, the text fine-tuned and the brochure was printed.

The registry organised copies of the brochure and poster to be provided to all the Child Safety Service Centres in Queensland, stakeholders and other organisations involved in youth services.

The mail out was very successful, with the registry having to already organise another print run to deal with the demand for the brochures.

## Future directions

**T**he tribunal's priority in 2007–08 will be to continue to promote and provide a responsive review process that meets the diverse needs of our stakeholders in particular the vulnerable children of Queensland.

The tribunal has identified the following issues to be addressed during the next year.

- The tribunal will continue to increase stakeholder involvement and look to work collaboratively with other child protection agencies to promote and improve service delivery to vulnerable children.
- The tribunal anticipates that the number of applications for review will continue to increase in 2007-08. The implementation of the final stage of the case management system will enable the tribunal to deal efficiently with this anticipated increase in review applications.
- The tribunal will continue ongoing professional development of members and staff to improve its delivery of services.
- The tribunal will endeavour to strengthen public and participant confidence in the Tribunal, though continuing to publish de-identified decisions.
- The tribunal will generate and strengthen understanding of the Tribunal's independent review process by ensuring that participants have easy access to information regarding the hearing process, and by distributing educational material to child protection agencies and youth service centres.
- The tribunal will implement communication strategy initiatives, including undertaking community education sessions, to raise awareness of the Tribunal throughout the state, particularly in regional communities.
- The tribunal will continue to increase stakeholder involvement, improve service delivery and undertake regional hearings.
- The tribunal will continue to look at new ways of improving service delivery by undertaking strategic planning and surveying participants who use the tribunal.

## 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 2006–07.

The table below shows the Tribunal's operating expenses for the financial year from 1 July 2006 to 30 June 2007. The actual funding received through the Department of Justice and Attorney-General for this period was \$1,146,032.

Operating expenses	
Employee-related expenses	\$ 473,667
Supplies and services	\$ 677,578*
Depreciation and amortisation	\$ 1,443
Total	\$1,152,689
Operating result	\$ - 6,457

\*The figure for supplies and services includes Tribunal Members sittings fees of \$462,177.



## Appendix 1: Tribunal members

### Current members 2006–07

Member	Category	Region
Julie Ford (President)	Professional	Brisbane
Glenda Alexander	Professional	Brisbane
Margaret Arthur	Legal	Brisbane
Johanna Bakermans	Professional	Brisbane
Elizabeth Benson-Stott	Indigenous/Professional	Hervey Bay
Susan Bothmann	Legal	Brisbane
Alexander Brands	Professional	Brisbane
Suzanne Brooks	Legal	Brisbane
Hon. Robert Bulley	Legal	Brisbane
Dr. Nigel Collings	Professional	Brisbane
Julie Cowdroy	Legal	Gold Coast
Anne Demack	Legal	Rockhampton
Michelle Dooley	Legal	Gold Coast
Penny Feil	Legal	Toowoomba
Jennifer Felton	Professional	Brisbane
Rob Grant	Legal	Brisbane
Dr Alison Holm	Professional	Brisbane
Ron Joachim	Professional	Brisbane
Lyn Johannessen	Indigenous	Ipswich
Mark Johnston	Legal	Cairns
Rosemary Kyburz	Professional	Brisbane
Louise McDonald	Professional	Noosa
Paul McGrath	Legal	Brisbane
Gwenn Murray	Professional	Brisbane
Maureen O'Regan	Professional	Brisbane
Carol Peltola	Professional	Brisbane
Dr. Jennifer Promnitz	Professional	Townsville
Kim Richards	Young Person / Professional	Brisbane
Gwen Schrieber	Indigenous / Professional	Cairns
Dr. Stephen Stathis	Professional	Brisbane
Shirley Watters	Professional	Brisbane
Jennifer Wiltshire	Professional	Brisbane

The President and Registry acknowledge the valued contribution of the following members whose appointments ended during 2006–07, in particular Susan Gardiner whose term as President officially ended when she was appointed to the position of President of the Guardianship and Administration Tribunal on 9 November 2006.

Susan Gardiner	President/Legal	Brisbane
Alison Harris	Professional	Brisbane
Michelle Howard	Legal	Brisbane

# 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 well-being 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
- c. 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 –
  - f. should be given the information and help necessary for the child to do so; and
  - g. should have access to appropriate representation;
  - h. Aboriginal tradition and Island custom must be taken into account in matters involving Aboriginal people and Torres Strait Islanders;
  - i. the cultural practices of persons involved in a review must be taken into account to the extent they are relevant to the review;
  - j. 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;
  - k. 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 – <i>Child Protection Act 1999</i> (right of review is conferred by s 247)		
<ul style="list-style-type: none"> <li>Directing a parent in relation to a supervision matter stated in a child protection order (s78 CPA) (Aggrieved party must be parent given the direction)</li> <li>Deciding in whose care to place a child under a child protection order granting the chief executive custody or guardianship (s86(2) CPA) (Aggrieved party must be child's parent or the child)</li> <li>Not informing a child's parents of person in whose care the child is and where the child is living (s86(4) CPA) (Aggrieved party must be parent given the notice or the child)</li> <li>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) CPA) (Aggrieved party must be person affected by the decision)</li> </ul>	<ul style="list-style-type: none"> <li>Removing child from carer's care (s89 CPA) (Aggrieved party must be carer as defined in s 91 or the child given notice under s.90(4))</li> <li>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 CPA) (Aggrieved party must be applicant or existing licensee)</li> <li>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 s 135(1)(a)(iii) or (b) (iv) does not have a current positive prescribed notice (Blue Card) (s136 CPA) (Aggrieved party must be applicant or existing certificate holder)</li> <li>Cancelling an authority (s 140AG(3) or (4) or 140AH) (Aggrieved party must be authority holder)</li> </ul>	<ul style="list-style-type: none"> <li>Refusing an application for an amendment of authority other than a provisional certificate (s137 CPA) (Aggrieved person must be authority holder)</li> <li>Amending an authority other than a provisional certificate (s138 CPA) (Aggrieved person must be authority holder)</li> <li>Suspending or cancelling an authority other than a provisional certificate (s140 CPA) (Aggrieved person must be authority holder)</li> <li>Arranging for an interstate welfare authority to assume custody of guardianship of a child (s245 CPA) (Aggrieved party must be a person issued a notice under s245(6))</li> </ul>
Reviewable decisions -Commission for Children and Young People and Child Guardian Act 2000 (right of review is conferred by ss121 and 140B)		Reviewable decisions – <i>Adoption of Children Act 1964</i> (right of review is conferred by s14D)
<ul style="list-style-type: none"> <li>The issue of a negative notice (s102(4) or (7) CCYPCGA)</li> <li>The cancellation of a positive notice and substitution of a negative notice (s119B(2) CCYPCGA)</li> <li>The cancellation of a positive notice which was suspended (s119D(3) CCYPCGA)</li> </ul> <p>For these applications:</p> <ul style="list-style-type: none"> <li>The applicant is the person issued with the negative notice or the cancellation of the positive notice.</li> <li>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.</li> <li>s121 (2) prohibits the Tribunal from issuing a stay.</li> <li>The suspension of a positive notice under s119C(1) because the person had been charged with an excluding offence (s121 CCYPCGA) (The applicant must be claiming he or she has not been charged with the relevant excluding offence)</li> <li>Application made by the Commissioner for review of a reviewable decision specified in s140A CCYPAGA (Applicant is the Commissioner)</li> </ul>		<ul style="list-style-type: none"> <li>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 ACA) (Applicant is a person/s whose name is removed)</li> <li>An unfavourable assessment of a person whose name is in adoption list or expression of interest register (ss13AE 13AF &amp; 13B ACA) (Applicant is a person unfavourably assessed)</li> <li>An unfavourable assessment based on criminal history alone (s14B ACA) (Applicant is a person/s unfavourably assessed)</li> <li>An assessment of a prospective adopter whose name is in an assessment register or in whose favour and interim order is made (s14 ACA) (Applicant is a person unfavourably assessed)</li> </ul>
Reviewable decisions - <i>Child Care Act 2002</i> (right of review is conferred by s 163)		
<ul style="list-style-type: none"> <li>Refusing to issue the licence or to issue the licence on a condition (s 19) (Applicant is an applicant for a licence)</li> <li>Refusing to renew the licence (s 21) (Applicant is a licensee)</li> <li>Refusing to amend the licence in a way the licensee has applied for (s 40) (Applicant is a licensee)</li> <li>Amending the licence other than in a way the licensee has applied for or agreed to (s 42) (Applicant is a licensee)</li> <li>Amending the licence other than in a way the licensee has applied for or agreed to (s 43) (Applicant is a licensee)</li> <li>Suspending or revoking the licence (after issue of a show cause notice) (s 45) (Applicant is a licensee)</li> <li>Refusing to amend the licence in a way the licensee has applied for (s 51) (Applicant is a licensee)</li> <li>Suspending a licence immediately (s 46) (Applicant is a licensee)</li> </ul>	<ul style="list-style-type: none"> <li>Refusing to lift the suspension of the licence (s 50) (Applicant is a licensee)</li> <li>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 (s 54) (Applicant is a personal representative of the estate of a licensee who has died)</li> <li>Giving a prohibition notice to a person (s 107) (Applicant is a person given notice)</li> <li>Refusing to cancel a prohibition notice in force for the person (s 108) (Applicant is a person given notice)</li> <li>Refusing application for an approval of qualification mentioned in s 109 or s 110 of the Child Care Regulation 2003 (s111) (Applicant is a person whose application is refused)</li> </ul>	

## Contact Us

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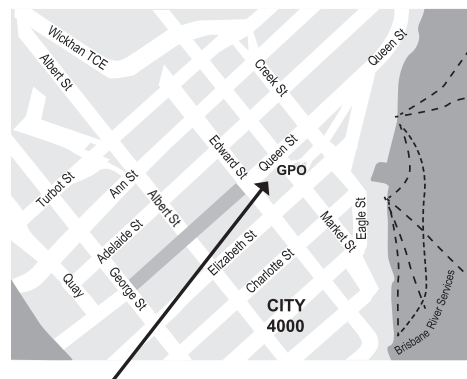
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## Where we are:

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.



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